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Chairman: Mr. Wolfe ..... (Jamaica)

Contents

Agenda item 70: Promotion and protection of human rights (*continued*)

(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

(c) Human rights situations and reports of special rapporteurs and representatives

(e) Convention on the Rights of Persons with Disabilities

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07-56529 (E)

The meeting was called to order at 10.15 a.m.

Agenda item 70: Promotion and protection of human rights (*continued*) (A/62/36, 369 and 464)

(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (A/62/183, 207, 212, 214, 218, 222, 225, 227, 254, 255, 265, 280, 286, 287, 288, 289, 293, 298, 304, 317; A/C.3/62/3)

(c) Human rights situations and reports of special rapporteurs and representatives (A/62/213, 223, 263, 264, 275, 313, 318, 354 and 498)

(e) Convention on the Rights of Persons with Disabilities (A/62/230)

1. **Mr. Alston** (Special Rapporteur on extrajudicial, summary or arbitrary executions) said that 2007 marked the twenty-fifth anniversary of the first human rights thematic special rapporteurship, which dealt with extrajudicial killings. For that reason and because of the review of mandates currently being undertaken by the Human Rights Council, his report (A/62/265) contained a historical review of the evolution of the mandate. The themes he had selected to illustrate that evolution were counter-terrorism, the protection of refugees and internally displaced persons (IDPs) and the issue of non-State actors.

2. With regard to non-State actors, he had made a special effort over the previous three years to demonstrate that special procedures could and should respond to abuses committed by rebels and other armed opposition groups. That view had not been widely accepted a decade earlier. Today, however, Governments increasingly agreed that there was a need to engage with any armed group that violated human rights.

3. Several conclusions had emerged from his review. First, though the initial formulation of special procedures mandates was inevitably narrow, such mandates evolved in response to factors such as additional demands by States, new forms of violations, increasing public demands for effective responses and the development of new techniques and expectations within the broader human rights regime. The ability to adapt and evolve was essential.

4. Second, extrajudicial executions mandate contradicted the stereotype of special procedures involving Western experts focusing disproportionately on Governments of developing countries. Despite the regional diversity among previous Special Rapporteurs, the general approach adopted had remained consistent over time, and many of the incidents addressed had alleged violations by developed country Governments.

5. Third, procedures went to the heart of the potential effectiveness of a mandate such as his own. He had sought to streamline the system of communications, to respect the confines of the mandate while acknowledging the broader context on country visits, to limit the scope of his recommendations and to be as precise as possible. Despite such endeavours, productive engagement with Governments and with the Human Rights Council remained an overwhelming challenge. Accountability remained a prominent theme in the debates on the Council's new procedures and practices.

6. The majority of Governments were failing the basic test of accountability, a fact illustrated most dramatically in relation to requests for visits. That abdication of responsibility discouraged cooperation by other States, rewarded uncooperative States and established a system of impunity with regard to concerns over extrajudicial executions. The impotence of the Special Rapporteur in such situations made a mockery of the special procedures in relation to extrajudicial executions.

7. With regard to specific country situations, the Islamic Republic of Iran had been a party to the Covenant on Civil and Political Rights since 1968 and to the Convention on the Rights of the Child since 1991. Both treaties banned the execution of juveniles, yet Iran executed more juveniles than any other countries. He had written on nine occasions to the Iranian Government in that connection without receiving a single response, and the executions continued. Other major problems in Iran included the imposition and carrying out of the death penalty for a wide range of crimes that did not meet the requirements of international law to restrict executions to those guilty of the most serious crimes. Mass executions had been reported increasingly in 2007, sometimes occurring only a short time after arrest. Such circumstances made a mockery of any pretence to have respected due process rights. Lastly, the provisions of the Penal Code which provided for adulterers and others to be stoned to death remained in force. Those laws were barbaric by any standards.

8. Concerning the Philippines, he was aware that a significant number of encouraging initiatives had been taken since his visit. However, he continued to receive deeply disturbing reports. The Government's decision to continue to establish barriers to Congressional oversight of the military was disappointing, especially after his interim report on the mission identified those barriers as a key problem.

9. The Sri Lankan Government continued to contest his characterization of the situation in that country as an impending crisis, while the crisis continued to worsen. The establishment of an international human rights monitoring presence by the United Nations would reduce significantly the number of human rights abuses in Sri Lanka.

10. **Mr. Ermita** (Philippines) said he recognized that many of the Special Rapporteur's recommendations had been made constructively. The Special Rapporteur's visit to the Philippines had sparked enhanced national discussions on human rights protection. The Special Rapporteur, the independent Philippine Human Rights Commission and the Melo Commission, created to investigate the activist and media killings, had all concluded that there was no State policy condoning or ordering such killings, and had blamed rogue elements in uniform and members of insurgency groups. However, the Government did not shirk its responsibility to bring the perpetrators to justice and prevent further killings. The Government had recently reiterated instructions for security forces to actively prevent human rights violations by rogue men in uniform. His delegation shared the Special Rapporteur's desire to see results shortly, particularly in the form of convictions. Six persons had already been convicted.

11. The Government's main institutional responses included the establishment of a police task force to investigate police, political and media killings, the strengthening of the Presidential Human Rights Committee and improvements of the witness protection programme. The Commission on Human Rights had been given additional funding. Also, to address the charge of a culture of impunity, the President had ordered security forces to investigate cases involving men in uniform. The judiciary had established the remedy of amparo, allowing victims to apply for protective measures.

12. His delegation reaffirmed its commitment to protecting and promoting human rights, and it reserved the right to address the report more thoroughly when the Special Rapporteur presented it formally before the Human Rights Council.

13. **Mr. Khani Jooyabad** (Islamic Republic of Iran) said that his country and many other Member States recognized capital punishment as an effective means of protecting the right to life of potential victims of serious crimes, including terrorism, drug trafficking and sabotage. Sovereign States, not the Special Rapporteur, should define the scope of the most serious crimes in their domestic laws. It was well beyond the mandate of the Special Rapporteur to pass judgement on capital punishment according to a hidden personal agenda. According to the report, a majority of countries did not cooperate with the Special Rapporteur's mandate; one of the main reasons for that was the way in which the Special Rapporteur conducted and performed his mandate. He requested that the Special Rapporteur should abide by and work within the remit of his mandate, as defined by sovereign States. On the question of juveniles, the statements made by the Special Rapporteur were exaggerations. Iran was abiding by due process and acting in accordance with international and domestic laws, specifically the International Covenant on Civil and Political Rights.

14. **Ms. Castelo** (Portugal), speaking on behalf of the European Union; the candidate countries Croatia, the former Yugoslav Republic of Macedonia and Turkey; the stabilization and association process countries Albania, Bosnia and Herzegovina, Montenegro and Serbia; and, in addition, Iceland, Liechtenstein, Moldova, Norway and Ukraine, noted that the Special Rapporteur would soon be submitting a report on the situation worldwide with regard to extrajudicial, summary or arbitrary executions. She asked what the most significant developments on the issue were and how the Special Rapporteur thought the phenomenon might be combated most effectively. She also requested a brief description of the situation in Darfur in advance of the final report of the Group of Experts on Darfur, which would soon be released. She wondered whether the Sudanese Government was acting on the Group's earlier recommendations. Lastly, with regard to the lack of cooperation with the Special Rapporteur's requests for invitations to countries, she noted that some of the countries involved were members of the Human Rights Council and thus responsible for

upholding the highest standards in the promotion and protection of human rights, in accordance with the resolution establishing the Council. She wondered what steps were being taken to address that lack of cooperation in response to requests by special procedures mandate holders for visits.

15. **Mr. Casal** (Bolivarian Republic of Venezuela) said that the Special Rapporteur's requests for an invitation to visit his country were taken very seriously, and that his Government hoped to be able to respond positively to them as soon as possible. Arrangements would be made to ensure optimal conditions for the Special Rapporteur to pursue fully his mandate. He would also appreciate the Special Rapporteur's thoughts about the legal definition of deaths caused by private contractors hired by States in the context of armed conflicts and about the responsibility of States that might be involved in those acts.

16. **Mr. Chernenko** (Russian Federation) said that his delegation had listened with interest to the views of the Special Rapporteur concerning non-State actors and responsibility for human rights violations. It seemed that States intentionally avoided responsibility for such violations by blaming non-State actors. The use of armed groups and private security companies was becoming the norm in military actions, precisely because of the impunity they enjoyed. His delegation would be interested to hear the views of the Special Rapporteur on the approach to be taken when such auxiliary forces were established specifically in order to avoid responsibility and control of their actions.

17. **Ms. Norin** (United States of America) said that her country had extended an invitation to the Special Rapporteur for a country visit, and that her Government looked forward to working with him to assure a constructive visit. The United States appreciated the ongoing and constructive dialogue with the Special Rapporteur about the appropriate scope of his mandate when matters governed by the law of armed conflict were involved. However, as the Special Rapporteur himself recognized, determining responsibility in such situations could be legally complex. Her delegation looked forward to addressing those issues in detail in future interactions.

18. **Ms. Sutikno** (Indonesia) said that, as the process of review of special procedures was an ongoing one undertaken by the Human Rights Council, her delegation would refrain from commenting extensively on the issue. Indonesia, an active member of the Human Rights Council, had been cooperating with the United Nations human rights mechanisms, inter alia by accepting visits from three Special Rapporteurs in the previous year alone, in addition to the recent visit of the High Commissioner for Human Rights. The High Commissioner had expressed satisfaction with her visit to Indonesia in a statement to the Third Committee, and had presented a brief report on the country visit at the sixth session of the Council.

19. Despite her country's desire to welcome as many visits as possible, she drew attention to the importance of the Code of Conduct for Special Procedures Mandate Holders and the principle of extending invitations to visits by human rights observers based on the consent of the countries concerned. Further, extending an invitation to any Special Rapporteur would require ensuring that the timing of the visit was opportune and that the visit would involve as many stakeholders as possible. Indonesia was in the process of preparing for the visit of the Special Rapporteur on torture, scheduled to take place in November 2007.

20. **Ms. Colonne** (Sri Lanka) said that since the visit of the Special Rapporteur to her country in 2006, notable developments had included the visit of the United Nations High Commissioner for Human Rights, who had acknowledged that the visit had been useful and constructive. Her Government did not disregard its responsibility to protect the rights of all its citizens and had at no time shown reluctance to engage closely with Office of the United Nations High Commissioner. A detailed statement on additional measures taken in Sri Lanka would be presented later in the Third Committee's debate on the agenda item. In 2007 Sri Lanka had received the Special Rapporteur on torture and other cruel, inhuman and degrading treatment or punishment, and it would shortly be hosting the representative of the Secretary-General on internally displaced persons.

21. **Mr. Ke** Yousheng (China) said that China had a complete set of domestic laws on extrajudicial, summary or arbitrary executions. As a member of the Human Rights Council, it had always attached importance to meeting the commitments it had made while campaigning for membership of the Council, and had cooperated actively with its special procedures. In recent years, China had received Special Rapporteurs on torture, on freedom of religious belief and on the

right to education, in addition to the Chairman of the Working Group on Arbitrary Detention. His Government would make its own plans and arrangements for visits by different types of Special Rapporteurs, in an order reflecting a balance between different kinds of rights.

22. **Mr. Menon** (Singapore) said that his delegation wished to address the allegations in the report (A/62/265) to the effect that the Singapore Government had refused the Special Rapporteur's request to conduct a country visit and had accused him of pursuing a personal agenda that exceeded his mandate. That was a misleading portrayal of events.

23. The mandate of the Special Rapporteur was clearly defined, and was confined to extrajudicial, summary and arbitrary executions, acts which Singapore neither committed nor condoned. All capital punishment cases were conducted in accordance with the country's laws and subject to judicial safeguards. The integrity and transparency of Singapore's legal system was well known. All persons were ensured Constitutional safeguards and due process of law.

24. The Special Rapporteur had chosen to ignore those facts, and instead had used his position to campaign against death sentences handed down by the Courts. Such actions were clearly beyond the mandate conferred on him by the former Commission on Human Rights and the Human Rights Council. The Special Rapporteur had issued public statements in his capacity as a United Nations official asserting that the laws of Singapore were inconsistent with international human rights standards, ignoring the fact that capital punishment was not prohibited under international law, provided it was imposed according to due process of law. His delegation also wished to remind the Special Rapporteur that there was no international consensus on whether capital punishment was a violation of human rights. The question was one which every State had the sovereign right to decide, taking into account its own circumstances.

25. The Singapore Government recognized that capital punishment was a severe penalty, imposed only for the most serious crimes in accordance with the law. It was an important component of Singapore's legal and justice system. Despite holding strong personal views about capital punishment, the Special Rapporteur should not abuse the authority of his office to pursue a personal agenda, and certainly not on limited United Nations resources.

26. In June 2007, the Human Rights Council had adopted the Code of Conduct for Special Procedures Mandate Holders, which stated that mandate holders should bear in mind the need to ensure that their personal political opinions were without prejudice to the execution of their mission, and should base their conclusions and recommendations on objective assessments of human rights situations. If mandate holders were to have the moral authority and credibility to carry out their mandates, their conduct must be above reproach. The Special Rapporteur would do well to be reminded of that.

27. **Mr. Karanja** (Kenya) said that Kenya welcomed the forthcoming visit of the Special Rapporteur subsequent to the current general election period, after the newly elected President had had time to form a government.

28. **Mr. Alston** (Special Rapporteur on extrajudicial, summary or arbitrary executions) expressed appreciation to the many countries which had entered into dialogue with him or which were considering issuing an invitation for him to visit. He acknowledged that balance and timing were important, but said that it was particularly significant when a Government avoided engagement on the subject of extrajudicial executions.

29. Concerning the issue of private contractors, which was currently being considered by the Working Group on mercenaries, he said that the principal responsibility for the actions of military contractors, lay with the host State. In response to the recent incidents in Iraq, the Iraqi cabinet had as a first step rescinded the immunity provisions covering private contractors. The sending country, however, should take State responsibility for the observance of human rights by those it employed.

30. With regard to the concerns raised by the representative of Singapore, while on a three-week visit to the country in his academic capacity, he had been stuck by a newspaper article calling attention to the plight of drug couriers from Singapore who had been sentenced to death in other countries. Accused drug couriers were far better off, however, in other countries than they would be in Singapore, where a mandatory death penalty was imposed for that offence and 400 executions had been carried out over the past

15 years. There was not a single international human rights body which had not concluded that the mandatory death penalty imposed in Singapore for the possession of very small quantities of drugs was a violation of international law. The Law Society of Singapore had recently presented a discussion paper to the Government proposing that the provision should be eliminated and citing the need to respond to emerging values within Singaporean society itself.

31. In reply to the representative of the European Union, he said that the Group of Experts on Darfur was currently meeting, and expressed satisfaction at the level of engagement of the Government of the Sudan. The real test would come at the November 2007 meeting of the Group, when it discussed what measures had actually been taken. On the subject of visits, it was incumbent on Human Rights Council members to engage directly with the special procedures.

32. He believed that the system of special procedures was the crown jewel of the human rights system. The fact that Governments maintained the system and engaged with it was encouraging.

33. **Mr. Menon** (Singapore) said that the newspaper article referred to by the Special Rapporteur had appeared in the "Straits Times", a local paper which did not represent the views of the Government. The proposal raised by the Law Society would be discussed and decided internally. It was not for the Special Rapporteur to tell the Government that it was obligated to accept the proposal.

34. **Ms. Jahangir** (Special Rapporteur on freedom of religion or belief), introducing her report (A/62/280), said that the effective protection and promotion of the right to freedom of religion or belief posed serious challenges to all States. Preventive measures were crucial in that regard. Specific attention should be paid to the situation of such vulnerable groups as women, persons deprived of their liberty, refugees, children, minorities and migrant workers. Refugees, asylum-seekers and internally displaced persons were in a situation of special vulnerability, which might also be linked to their freedom of religion or belief. The legal framework for refugee claims based on religion also touched on the question what the terms "religion" and "belief" encompassed.

35. Her report also addressed concerns raised by atheistic and non-theistic believers and the protection of the right not to profess any religion or belief. There were worrying trends towards applying blasphemy laws in a discriminatory manner, often disproportionately punishing non-theists, atheists and members of religious minorities.

36. The three main pillars of her mandate were communications, country visits and thematic reports or speeches. Since the inception of the mandate, more than 1,100 allegation letters and urgent appeals had been sent to a total of 130 States. Although 63.6 per cent of Governments on average replied to communications annually, 20 States, four of which were Human Rights Council members, had never replied to a communication.

37. Country visits, the second pillar of the mandate, enabled her to talk directly with governmental and non-governmental representatives and gather first-hand information. A total of 24 visits had been undertaken by mandate holders. In 2007, she had visited Tajikistan and the United Kingdom; a visit to Angola was scheduled for November. She had also received invitations from the Governments of India, Israel and Turkmenistan.

38. Thematic studies and speeches at international consultations gave her an opportunity to address issues of concern in detail. She had recently collaborated with the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance on a report entitled "Incitement to racial and religious hatred and the promotion of tolerance" (A/HRC/2/3) for the second session of the Human Rights Council in September 2006. The categories of her framework for communications to States had been developed into an online digest illustrating international standards, with excerpts of findings since 1986, which should serve as a useful tool for Governments and non-governmental organizations alike.

39. Both she and her predecessors had repeatedly regretted the fact that freedom of religion or belief was not a reality for many throughout the world. Religious intolerance had increased, especially since 2001, and actors working for peace and tolerance had been marginalized. The two main strands of her mandate deserved equal attention. On the one hand, freedom in pursuing one's religion or belief must be protected and respected, and on the other, the rights of individuals must not be violated on the premise of religion or belief. Impunity should not be granted when criminal

acts were given a religious label. At the same time, Governments should be proportionate in their actions, abide by the rule of law and respect international human rights standards.

40. The appropriate role of Governments in promoting freedom of religion or belief was to engage in wise and balanced decision-making at all levels; non-discriminatory legislation and an independent judiciary were also crucial. Protection must be complemented by prevention efforts. States should devise proactive strategies to prevent acts of intolerance and discrimination and identify possible conflicts between communities of religion or belief in advance. However, specific legislation should be introduced with caution, since over-regulation could be counterproductive. Inter-religious dialogue should be encouraged, and should involve not only religious leaders but initiatives at the grass-roots level. Education could play an important preventive role, especially when it ensured acceptance of pluralism and diversity. She was currently involved in efforts by a regional organization to develop guiding principles on teaching about religions and beliefs in public schools.

41. There were several root causes of religious intolerance, which varied from society to society. What was needed was the capacity and vision of political and religious leaders to react to it in a balanced manner. It was essential to detect early signs of developments that might lead to religious persecution or intolerant behaviour. Extreme measures gave rise only to further extremism. If mutual tolerance, understanding and genuine interest could be established at the grass-roots level, many incidents of intolerance and discrimination based on religion or belief might ultimately be prevented.

42. **Ms. Martins** (Portugal), speaking on behalf of the European Union, asked what measures would be most urgent in overcoming obstacles to protection of religious freedom raised by blasphemy laws. She would also like to know how specific regulations could prove to be counterproductive, and how to prevent a hierarchy of beliefs most effectively.

43. **Ms. Khvan** (Russian Federation) welcomed the Special Rapporteur's balanced and objective approach to her mandate, as reflected in the report (A/62/280). Her delegation agreed that criminal acts committed in the name of religious beliefs should not go unpunished, but that Governments should respond only in accordance with the rule of law and international human rights norms. She asked the Special Rapporteur to define the role of Governments in ensuring freedom of religion while at the same time combating intolerance and discrimination. The Special Rapporteur should also explain how she managed to balance the promotion of freedom of opinion with the protection of the religious sentiments and beliefs both of individuals and groups. The responsibility of non-State actors for violations of human rights should also be examined.

44. **Ms. Nelson** (Canada) said that her delegation encouraged the Special Rapporteur to continue her country visits, which constituted a fundamental pillar of the mandate. She enquired about any requests for visits to countries of concern which had not yet received a response. Canada was also deeply concerned at ongoing discriminatory practices which targeted religious minorities as well as incitement to violence in the name of religion, and asked whether the Special Rapporteur could elaborate on preventive measures that Governments could take to avoid the problem. Finally, it would be interesting to hear how the Special Rapporteur saw the linkages between her mandate and other human rights mandates and how she cooperated with other mandate holders.

45. **Mr. Casal** (Bolivarian Republic of Venezuela) drew attention to the issue of non-State actors in the form of religious groups who sought to change religious beliefs among indigenous communities and saw indigenous belief systems as inferior. He would therefore be interested in hearing the Special Rapporteur's understanding of the concept of defamation of religion, which his delegation saw as a legal concept.

46. **Mr. Rees** (United States of America) said that the responsibility to protect the right to religious freedom fell to all Governments, but should never be arbitrarily abridged by any Government. Because of the importance it accorded to that right, the United States appreciated the dedicated work of the Special Rapporteur. Her report accurately identified the issues that limited religious freedom, and provided a workable set of recommendations for overcoming religious intolerance. His delegation would be interested to know whether the Special Rapporteur had approached any Governments regarding the implementation of those recommendations.

47. Given the pressing need to promote religious freedom, the United States strongly supported the extension of the Special Rapporteur's mandate, which must be free of amendments that would limit or weaken the ability to work effectively. The continuation of her vigorous engagement with Governments was critical, as those contacts were important tools for investigating allegations of abuse and for allowing Governments to respond and take corrective measures. However, it opposed efforts to alter the mandate in ways that would permanently add additional elements. Those efforts had focused primarily on issues of defamation of religion. While it discouraged actions that were offensive to particular religious traditions, his delegation also believed that basic freedoms required that all persons should be able to critique religious practice without fear of reprisal.

48. **Ms. Sutikno** (Indonesia) said that her country was proud of its diversity and remained committed to freedom of religion. The case mentioned in the report of the Special Rapporteur (A/62/280) was therefore an isolated case and should not be regarded as deliberate disrespect for human rights. She asked why the Special Rapporteur had difficulty in accepting the concept of defamation of religion, since there had been many deadly consequences of incitement to hatred towards religions.

49. **Mr. Ermita** (Philippines) said he was particularly impressed by the Special Rapporteur's plea for inter-faith dialogue and invited her to focus further on multilateral approaches to safeguard freedom of religion or belief.

50. **Mr. Meyer** (Observer for the Holy See) said that his delegation supported the Special Rapporteur's recommendation to devise proactive strategies to prevent acts of intolerance based on religion or belief and asked whether she could outline some best practices and creative initiatives that could serve as models in that respect.

51. **Mr. Pham Hai Anh** (Viet Nam) said he wished to make a clarification concerning footnote 22 in the report of the Special Rapporteur. That footnote referred to a "summary of the exchange of letters" contained in two reports that had been submitted to the Commission on Human Rights. In juxtaposition to the other footnotes, which referred to replies from Governments, the footnote was somewhat ambiguous and gave the erroneous impression that the Government of Viet Nam had not replied to the Special Rapporteur. His Government had, in fact, replied in the two aforementioned reports.

52. **Mr. Tun** (Myanmar) said that his delegation firmly rejected paragraph 45 of the Special Rapporteur's report stating that a number of citizens in western Myanmar had been subjected to extrajudicial execution and torture and that many had fled to Bangladesh. He considered those charges inane and inept, tantamount to driving a wedge between Myanmar and Bangladesh, two friendly neighbours that had resolved in an exemplary way the problem of illegal immigration.

53. **Mr. Attiya** (Egypt) said that religious defamation on the pretext of freedom of opinion or expression was in fact a violation of the rights of others. It was therefore important to focus on promoting respect and mutual understanding among religions and cultures.

54. **Mr. Chihuailaf** (Chile) said that the right not to profess any religion or belief should be protected. He would appreciate the Special Rapporteur expanding on her statement that proactive strategies that should be devised to prevent acts of intolerance and discrimination. He would also welcome further details concerning her comment that specific legislation should be introduced in a cautious manner because compulsory overregulation might prove to be counterproductive.

55. **Mr. Sergiwa** (Libyan Arab Jamahiriya) said that Muslims in some countries were subjected to discrimination on the false premise that Islam and terrorism were linked. He hoped that the Special Rapporteur would pursue her efforts to consolidate tolerance and present specific recommendations to safeguard religious freedom.

56. **Ms. Jahinger** (Special Rapporteur on freedom of religion or belief) said that any religious hatred that served as an incitement to discrimination, hostility or violence fell under article 20, paragraph 2 of the International Covenant on Civil and Political Rights, thus constituting a human rights violation. Nonetheless, she wished to make a distinction between that violation and the concept of defamation. In the report she had submitted, together with the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, to the Human Rights Council in September 2006 (A/HRC/2/3), she had pointed out that defamation was

a legal term and could range from merely denouncing someone's religious belief, even in an academic manner, to committing a human rights violation. If defamation was considered a human rights violation, any person claiming superiority of his or her religion or anyone analysing religion intellectually could be accused of defamation, which would be tantamount to religious persecution. It was possible to criticize religion in an objective matter, while belief in racial superiority was a subjective judgement. A distinction had to be made between those two types of discrimination.

57. Although defamation of religions might offend people, it did not directly result in a violation of their human rights. Laws on blasphemy had been vastly misused and had targeted the most vulnerable, even those who were dispassionate about religion. Making every criticism of religion a human rights violation and subject to legislation would be counterproductive because people might be induced to violate the law and challenge the Government. In India, for instance, many lower-caste people had disobeyed the anti-conversion laws, and it had been impossible to punish everyone.

58. With regard to the conversion of indigenous people, she said that could be a matter of misuse of power rather than defamation. She would be looking into that issue more closely in the future. In that connection, she stressed that Governments should be considering long-term developments, and deciding how they would accommodate their policies with the proliferation of new religions.

59. Turning to the proselytization of religion during humanitarian crises, when people were most vulnerable, she said it was important not merely to adopt regulations but to search for solutions by means of a wider dialogue. She had seen many examples of good practices, where possible conflicts had been averted through consultations, as in the cases of Nigeria and Sri Lanka. There had been good practices in terms of education as well, specifically the work of the "Education for all" movement conducted by the United Nations Educational, Scientific and Cultural Organization (UNESCO), which taught children pluralism and tolerance.

60. **Mr. Bustamante** (Special Rapporteur on the human rights of migrants) said that he had often reiterated the positive effects of migration for both host countries and countries of origin. However, the focus of States had largely been on the better management and control of the movement of migrants and their goods and services rather than on the articulation and protection of their rights. He therefore urged States to incorporate a human rights perspective into their discussions, whether they represented countries of origin, transit or destination. The next Global Forum on Migration and Development, to be held in Manila in 2008, would be an excellent opportunity to promote that perspective.

61. Although there was constructive discussion at the international level, migrants at the national level were increasingly portrayed as "black sheep" and subjected to increased administrative procedures. In addition to the fears that the way of life in the host country would be undermined, migration was often associated with traffickers and people smugglers. Rather than focusing on the negative perceptions of migrants, there should be a debate at the national level on the advisability and relevance of adopting the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

62. Although it was the sovereign right of all States to safeguard their borders and regulate their migration policies, they should ensure respect for the human rights of migrants while enacting and implementing immigration laws. Today, the migrant population, which came from diverse countries, was particularly vulnerable to social exclusion and xenophobia. There had been an increase in incidents of discriminatory behaviour towards migrants in countries of both destination and transit.

63. The legal administration of migrants was not subject to control, and disproportionate powers were exercised by the immigration authorities. States also resorted to police "raids" in private homes, arresting all residents who did not hold documents attesting to legal residence. In the context of irregular migration, the Special Rapporteur was also concerned at the alarming numbers of women and unaccompanied minors who fell prey to trafficking and smuggling networks. The need for migrants to work made them easy prey for the trafficking networks, especially when those networks enjoyed a degree of impunity. Undocumented migrants were at increased risk of having their rights abused; they should be treated with dignity and provided with legal and humanitarian assistance, including urgent medical care. Many migrants paid considerable amounts of money to cross borders and ended up in a

type of debt bondage. Ironically, irregular migration was often the direct result of restrictive migration policies.

64. The Special Rapporteur called on the international community to support countries of origin to generate conditions that allowed their nationals to stay in their own communities. For their part, sending countries should create human rights conditions at the national level to convince potential migrants to stay in their country and should inform them about the risks of falling into the hands of international smuggling and trafficking networks if they left home.

65. **Ms. Castelo** (Portugal), speaking on behalf of the European Union, welcomed the Special Rapporteur's efforts to raise the visibility of the human rights of migrants. The European Union noted that the terms of reference of the Special Rapporteur's mandate remained unchanged despite the review of working methods contained in document E/CN.4/2006/73. The Special Rapporteur should comment on his priorities for future action, inter alia in the context of reform and on how the protection of the human rights of migrants might be advanced by the Human Rights Council and United Nations system as a whole. He should also outline how he intended to enhance cooperation with relevant stakeholders at all levels, including in the interests of women migrants.

66. **Mr. Rees** (United States of America) said that the United States wished to reaffirm its commitment to protecting the human rights of migrants, who had played an important role in building the nation. The previous year, 1.2 million people had become legal permanent residents in the United States, with family reunification accounting for 63 per cent of cases.

67. The Government supported legal, safe and orderly migration and made concerted efforts to warn of the risks of illegal migration and to assist those who found themselves in peril. An elite Border Patrol Search, Trauma and Rescue (BORSTAR) unit had been deployed for that purpose near the border with Mexico.

68. Acts of intolerance, racial discrimination and xenophobia and related crimes against migrants were prohibited under domestic law. The United States had a robust asylum process for people who had a well-founded fear of persecution in their home country. The previous year, over 41,000 refugees from nearly 60 countries had been granted asylum in the United States. They benefited from a range of specially tailored programmes and social services. Proud of its strong immigration tradition, the United States believed that coordination, cooperation and respect for all human beings were the keys to managing migration effectively.

69. **Mr. Ermita** (Philippines) asked what could be done to ensure that efforts to prevent trafficking in human beings did not impede the realization of the human rights of migrants.

70. **Ms. Sutikno** (Indonesia) said that Indonesia was engaged in constructive dialogue with the Special Rapporteur and was in the process of implementing the valuable recommendations he had made in the light of his visit the previous year. She asked how he planned to tackle persistent discrimination and violence against migrants in countries of destination and transit, and what role regional mechanisms should play in that connection.

71. **Mr. Kariyawasam** (Sri Lanka) said that the human rights of migrants received insufficient attention at the international level, despite the contribution they made to the economies of destination countries. At the Global Forum on Migration and Development, held in Brussels, there had been no focus on the human rights of migrants. Moreover, virtually all the countries that had ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families were countries of origin. The Special Rapporteur should explain how he proposed to encourage wider ratification of the Convention and promote a rules- and rights-based approach to the issue that was not confined to human rights forums. It was a matter of serious concern to countries of origin that goods and services crossed borders freely, while people were treated worse than commodities.

72. **Mr. Ochoa** (Mexico) said he agreed that a rights-based approach to the issue of migration was essential and wondered how the agenda of the next Global Forum might be improved. Resources should be allocated not for the building of walls, but for development. Bridges for mutual understanding and cooperation were also vital.

73. **Mr. Attiya** (Egypt) joined with previous speakers in commending the Special Rapporteur on his work. There was a need for a comprehensive approach to the realization of migrants' human rights. His delegation wondered how more Member States might be

convinced to ratify the Convention and how the Special Rapporteur envisaged cooperation with States that were not parties to the Convention.

74. **Mr. Akindele** (Nigeria) said that his delegation agreed with all the Special Rapporteur's recommendations. Migrants must be treated with dignity and full respect for their human rights. Memorandums of understanding were required between sending and receiving countries, and more funding should be allocated to United Nations efforts to tackle the crime of human trafficking.

75. **Mr. Ke** Yousheng (China) said that migration should not be viewed as a "problem" since it had contributed to the social and economic development of destination countries. Sending countries should be encouraged to create more development opportunities at home, while destination countries should do more to improve the situation of migrants and combat racial discrimination and xenophobia. He asked the Special Rapporteur to explain how he intended to cooperate with other special procedures for the promotion and protection of the rights of migrants.

76. **Ms. González** (Cuba) said that Cuba supported regulated, orderly migration and welcomed the opportunity to discuss the matter with other Member States. She praised the Special Rapporteur's efforts on behalf of migrants, concurring with his assessment of the situation. She would be interested to read any recommendations he had made following other country visits.

77. **Mr. Sergiwa** (Libyan Arab Jamahiriya) said that the forced return of migrants constituted a gross violation of human rights. His Government took a keen interest in the issue of migration and had hosted a regional conference to study its many aspects. The Libyan Arab Jamahiriya was committed to the humane treatment of migrants in accordance with its obligations under the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and other relevant international agreements. Lastly, his delegation welcomed the recommendations contained in the report and agreed that there was a need for more resources to promote the human rights of migrants in receiving countries.

78. **Mr. Bustamante** (Special Rapporteur on the human rights of migrants), welcoming the interest expressed by delegations, said that he would make a general statement in response to the questions posed. Regrettably, the world was divided into States that had ratified the Convention and those that had not. That phenomenon was no "act of nature", but an "act of power" that the Organization must address. He agreed that the next Global Forum should stress the human rights dimension of migration. There existed a false perception in many countries that undocumented migrants had no rights, which States had an obligation to dispel.

79. Many countries with a de facto demand for migrant labour, both documented and irregular, had remained silent about the scale of that demand, sometimes refusing even to recognize it. He thus planned to focus on building a consensus around the need for a new standard requiring States to measure that demand objectively. Such information would help combat racist and discriminatory acts against migrants and provide a weapon against xenophobia. It would be in the interests of all parties, except those seeking to exploit migrant labour to maximize profit.

80. The exploitation of children for the sex market was a particularly gross violation of human rights. Such a market was no abstraction; it also had both supply and demand. The Organization must act to ensure that that demand was recognized, or it would be very difficult to realize the human rights of migrants.

The meeting rose at 12.55 p.m.

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Chairman: Mr. Wolfe ..... (Jamaica)

Contents

Agenda item 62: Social development (*continued*)

(b) Social development, including questions relating to the world social situation and to youth, ageing, disabled persons and the family (*continued*)

Agenda item 70: Promotion and protection of human rights (*continued*)

(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (*continued*)

(c) Human rights situations and reports of special rapporteurs and representatives (*continued*)

(e) Convention on the Rights of Persons with Disabilities (*continued*)

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07-56535 (E)

The meeting was called to order at 3.15 p.m.

Agenda item 62: Social development (*continued*)

(b) Social development, including questions relating to the world social situation and to youth, ageing, disabled persons and the family (*continued*) (A/C.3/62/L.6)

Draft resolution A/C.3/62/L.6: Cooperatives in social development

1. **Ms. Ochir** (Mongolia), introducing the draft resolution on behalf of its sponsors, who had been joined by Brazil, Guatemala, Honduras, Mali, Myanmar and Panama, said that cooperatives provided a means of creating decent employment in the private sector, thereby supplementing the action of the public authorities. Through financial services, particularly in microfinance, they offered employment opportunities to marginalized social groups, such as women, who could create their own businesses and be integrated into the economy. They also enabled local producers to sell their products under fair trade conditions and to tap into niche markets. By providing training, health care and other social services, they had a positive impact on employment and on individual production capacity. It would therefore be very desirable for local, national and international decision makers to promote the establishment and development of cooperatives.

2. She pointed out that, following consultations, the draft resolution had been amended to take into account the recommendations of the Secretary-General in his report on cooperatives in social development (A/62/154). The following fourth preambular paragraph had been added: "Noting with appreciation the potential role of cooperatives development in the improvement of social and economic conditions of the indigenous peoples and rural communities". In addition, the words "and social" had been inserted between the words "business" and "enterprises" in paragraphs 2 and 3, and the phrase ", eradication of poverty" had been inserted in paragraph 2 after the words "sustainable development". Paragraph 4 (b) had been modified to read: "Encouraging and facilitating the establishment and development of cooperatives, including taking measures aimed at enabling people living in poverty or belonging to vulnerable groups, including women, youth, persons with disabilities, older persons and indigenous peoples, to fully participate, on a voluntary basis, in cooperatives, and to address their social service needs".

3. Similarly, in paragraph 4 (c), the words "to build the capacity of cooperatives" had been replaced by "and capacity-building of cooperatives", and in paragraph 4 (d), the words "and eradication of poverty" had been added after "to employment generation and to socio-economic development". Lastly, paragraph 4 (e) had been deleted, as had the words "through the Economic and Social Council" at the end of paragraph 8. She hoped that the draft resolution would be adopted by consensus.

4. **Mr. Gustafik** (Deputy Secretary of the Committee) said that the Democratic Republic of the Congo, the Dominican Republic and Malawi had joined the sponsors of the draft resolution.

Agenda item 70: Promotion and protection of human rights (*continued*) (A/62/36, A/62/369 and A/62/464)

(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (*continued*) (A/62/183, A/62/207, A/62/212, A/62/214, A/62/218, A/62/222, A/62/225, A/62/227, A/62/254, A/62/255, A/62/265, A/62/280, A/62/286, A/62/287, A/62/288, A/62/289, A/62/293, A/62/298, A/62/304, A/62/317 and A/C.3/62/3)

(c) Human rights situation and reports of special rapporteurs and representatives (*continued*) (A/62/213, A/62/223, A/62/263, A/62/264, A/62/275, A/62/313, A/62/318, A/62/354 and A/62/498)

(e) Convention on the Rights of Persons with Disabilities (*continued*) (A/62/230)

Report of the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea (A/62/318)

5. **Mr. Muntarbhorn** (Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea), introducing his report (A/62/264), recalled that the authorities of the country had so far declined to cooperate with him under the mandate entrusted to him by the Commission on Human Rights in 2004.

6. On the constructive side, the Democratic People's Republic of Korea was a party to four human rights treaties — the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention for the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child. It continued to cooperate with a number of United Nations agencies in the country and had undertaken some key law reforms, including revision of its Criminal and Criminal Procedure Codes in 2004 and 2005. A further cause of satisfaction was the conclusion, in October 2007, in the context of the six-party talks, of the Agreement on Second-Phase Actions for the Implementation of the Joint Statement. The Democratic People's Republic of Korea had thereby agreed to declare all its nuclear programmes and to disable nuclear facilities in Yongbyon by the end of the year and, in return, would receive external humanitarian assistance that could help to improve the human rights situation through bilateral talks under the six-party umbrella. The holding of the October 2007 summit between the two Koreas was also a welcome development.

7. Yet the human rights situation in the Democratic People's Republic of Korea remained grave. The country had been suffering from a severe food shortage since the 1990s, caused by natural disasters and mismanagement by the authorities, aggravated by the overemphasis on militarization and failure to generate food security due to unsustainable agricultural development. In 2006, the World Food Programme had begun its Protracted Relief and Recovery Operation to bring food aid to 1.9 million people, principally women and young children, which had, however, been slowed down by the missile and nuclear tests carried out by the country. The Government must ensure food security by itself addressing the chronic food shortage, without relying in the long term on the international emergency relief provided by United Nations agencies.

8. It had been reported that the authorities were continuing to persecute, torture or execute political dissidents and that prison conditions, in detention centres both for political dissidents and for criminals, as well as in re-education and forced labour camps, remained sub-standard. Furthermore, since the country was closed and information flow and the media were under rigid State control, there was no freedom of expression, information or association. Religious freedom was officially allowed, but was not a reality. It was also to be recalled that, since the 1970s, a number of Japanese nationals had been abducted by agents of the Democratic People's Republic of Korea, probably with the aim of using them to train spies or of usurping their identity for espionage purposes. Only five of them had returned to Japan, while the fate of the others remained uncertain, owing in particular to inadequate cooperation and follow-up on the part of the Democratic People's Republic of Korea.

9. Concerning the issue of refugees and the right to asylum, he stressed that the movements of refugees from the Democratic People's Republic of Korea had led to a boom in the trafficking in human beings and the exploitation of refugees. Moreover, practices towards refugees by first asylum countries varied: some States forcibly returned them to their countries of origin while others offered temporary refuge. In that regard, it was incumbent upon the international community to settle refugee problems and to exert effective influence on countries of origin to address the root causes leading to refugee outflows. The international community should also help first asylum countries to find durable solutions to the refugee problem. The destinations chosen by refugees was a function of the differences in the treatment mentioned above: when one country took a stringent approach towards those seeking refuge, refugees tended to seek access to other countries with a more lenient approach.

10. His previous reports dealt with the vulnerability of various groups, such as persons with disabilities, and women and children who were not part of the elite in the country of origin, and therefore bore the brunt of discrimination.

11. He stressed the importance of the responsibility of the State authorities for egregious human rights violations. The scenario had been made even more volatile by the various missile and nuclear tests, as previously mentioned, which led the Security Council to impose sanctions against the Democratic People's Republic of Korea. He further noted that in the preamble to resolution 1718 (2006), the Security Council made implicit reference to the issue of human rights by its emphasis on "other security and humanitarian concerns of the international community".

12. He invited the Democratic People's Republic of Korea: (1) To abide by its international obligations under the various human rights treaties to which it was

a party, as well as international law, and shift military expenditure to the human development sector and reallocate national resources to protect human rights and promote human security; (2) To facilitate access to humanitarian aid, respect the need for monitoring and build food security for the population; (3) To reform its prison system and build the judiciary in order to establish greater respect for fundamental freedoms, eliminate violence against the human person, and cooperate with the resolution of cases of abduction and disappearance; (4) To respect the freedom of movement of its citizens and to amend its legislation accordingly; (5) To allow the Special Rapporteur to enter the country to assess the human rights situation and advise on needed improvements.

13. He also invited the international community to establish dialogue with the Democratic People's Republic of Korea with relevant incentives, graduated influence and economic and security guarantees, and to mobilize all United Nations bodies to promote and protect human rights throughout the country.

14. **Mr. Pak** Tok Hun (Democratic People's Republic of Korea) said that his delegation objected to the resolution establishing the mandate of the Special Rapporteur, which had been adopted under pressure from the United States and the European Union, and was based on lies that supported hostility towards his Government. The issue of human rights concerned not only the promotion and protection of the rights and freedoms of persons, but also the protection of the dignity and sovereignty of States. The Democratic People's Republic of Korea would continue to defend socialism and its freedom.

15. In addressing the role of the international community, he believed that attempting to disgrace a country was not a very constructive way of dealing with the issue of human rights. His Government had formerly cooperated with the international community in the area of human rights, for example, by authorizing representatives of the European Union and Amnesty International to visit prisons and to meet members of the judiciary, and by its consideration of adherence to various international instruments such as the Convention against Torture. However, those efforts had ended since the adoption of resolutions against his country.

16. **Ms. Tavares** (Portugal), speaking on behalf of the European Union, urged the Democratic People's Republic of Korea to cooperate fully with the Special Rapporteur, including by granting him access to the country. She asked the Special Rapporteur how, in his opinion, he expected the human rights situation to improve, given the progress made in the six-party talks and whether he believed that such progress might include future cooperation with his mandate. She also asked whether the treatment of refugees in third countries, or by the Democratic People's Republic of Korea itself in the case of persons who were forcibly returned, might be improved, and what role the United Nations High Commissioner for Refugees (UNHCR) might play in that regard.

17. Similarly, she asked what role technical assistance provided by the Office of the United Nations High Commissioner for Human Rights could play in preventing torture and in reforming the prison system in order to promote greater respect for fundamental freedoms in the Democratic People's Republic of Korea. She asked which other groups were regarded as particularly vulnerable and what particular measures had been envisaged for their protection.

18. **Mr. Reese** (United States of America), noting the lack of cooperation of the Democratic People's Republic of Korea authorities with the Special Rapporteur, welcomed the progress achieved in the first half of 2007 within the framework of the six-party talks. He sought further clarification on the variety of detention centres in the Democratic People's Republic of Korea and on the definition of political dissidents as used in the report of the Special Rapporteur. In addition, it would be useful if the Special Rapporteur could provide an estimate of the ratio of political dissidents to ordinary prisoners in those centres and share his views on how to prevent and combat the exploitation of refugees from the Democratic People's Republic of Korea by smugglers and other intermediaries.

19. United States officials had repeatedly stated that improvements in the human rights record of the Democratic People's Republic of Korea would be necessary for that country to join the international community and normalize relations with the United States. His Government would continue to explore and identify firm measures for addressing those problems, including through international organizations and bilateral partnerships.

20. **Mr. Oshima** (Japan) welcomed the objectivity of the work of the Special Rapporteur and said that his

delegation fully endorsed his recommendations, particularly those that invited the Democratic People's Republic of Korea to honour its obligations with respect to the various international human rights instruments and to address the root causes of refugee outflows. In addition, the country should open its borders to the Special Rapporteur, for whom Japan wished to reaffirm its support. He recalled that abductions and enforced disappearances were flagrant violations of human rights. Only 5 of the 17 cases of abduction and enforced disappearances officially recognized by Japan had been resolved. He therefore appealed to the Democratic People's Republic of Korea to adopt the necessary measures for the 12 remaining cases to be resolved. In conclusion, he asked the Special Rapporteur to clarify what firm measures the international community and the United Nations could adopt in order to promote and protect human rights in the Democratic People's Republic of Korea and what progress had been achieved in the human rights situation since the latest round of six-party talks.

21. **Ms. Stuewer** (Canada), regretting that the Special Rapporteur had still not been given access to the Democratic People's Republic of Korea, urged the Government to change its position and to also allow the Special Rapporteur on the freedom of religion or belief, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the right to food to visit the country. She encouraged the Democratic People's Republic of Korea to address the root causes of the flight of refugees and to put an end to the persecution of those who were returned by receiving States. She further asked the Special Rapporteur to indicate how the international community could contribute to the improvement of the human rights situation in the Democratic People's Republic of Korea.

22. **Ms. Park** Enna (Republic of Korea) said that she agreed with the Special Rapporteur that the signing of the Agreement on Second-Phase Actions for the Implementation of the September 2005 Joint Statement would have a beneficial influence on the human rights situation in the Democratic People's Republic of Korea. She also concurred with him that the inter-Korean summit meeting would have a positive impact on that situation and would enhance the chances for peace and prosperity in the peninsula and throughout the region.

23. With regard to food security in the country, she said that the ongoing food shortage was a pressing problem necessitating the continued supply of humanitarian aid. She asked the Special Rapporteur to clarify the definition of "refugees *sur place*" and the rationale behind the principle of non-refoulement and to explain what kind of cooperation could reasonably be contemplated with a view to assisting refugees. She also requested him to outline what measures of cooperation between the international community and the Democratic People's Republic of Korea were most needed and easiest to apply in order to improve the quality of life of the country's population.

24. **Mr. Muntarbhorn** (Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea), replying first to the questions put by the representative of Portugal, said that United Nations assistance with flood relief measures was a good example of cooperation with the Democratic People's Republic of Korea and that the six-party talks offered a variety of opportunities to improve the human rights situation in the country, especially through bilateral channels. The number of refugees had risen in South-East Asia, perhaps partly because of the attitude of host countries. In that connection, he called on the countries concerned to grant the Office of the United Nations High Commissioner for Refugees (UNHCR) access to all refugees, wherever they were. As for the rule of law and prison conditions, he invited the Democratic People's Republic of Korea to accept the offer of technical assistance from the Office of the United Nations High Commissioner for Human Rights (OHCHR). Lastly, discrimination against women and children who did not belong to the elite was causing many people who were bereft of means of sustenance to leave the country.

25. In response to the questions raised by the representative of the United States, he said that many people were being held in detention and major prison reforms were necessary. The Democratic People's Republic of Korea did have laws to combat people smuggling, but they were implemented only in part. The issue was closely related to criminal elements operating in the border area. It would therefore be wise for neighbouring countries to ratify the Protocol to prevent, suppress and punish trafficking in persons, especially women and children, supplementing the United Nations Convention against Transnational Organized Crime.

26. With regard to the question of the representative of Japan concerning the advisability of using the totality of the United Nations system to solve human rights problems in the Democratic People's Republic of Korea, he said that United Nations entities should mainstream human rights into their work and were about to adopt measures on key issues in that respect. The six-party talks were indicative of a more auspicious period, since they opened up further possibilities for multilateral and bilateral collaboration and cooperation. As far as the matter of abductions was concerned, in 2002, Japan and the Democratic People's Republic of Korea had signed the Pyongyang Declaration in which they undertook to settle their disputes amicably and to take steps to normalize their relations once the outstanding issues had been settled.

27. As for policy options for the future, the concern of the representative of Canada, he said that they remained those currently on offer, namely multilateral cooperation, six-party talks and bilateral relations.

28. Turning to the questions and comments of the representative of the Republic of Korea, he welcomed the convening of the inter-Korean summit meeting and, in particular, the joint Declaration. The food situation in the Democratic People's Republic of Korea should be solved not only by means of food aid, but also through food security measures to prevent the partial loss of crops before and after the harvest and to conserve the environment through good watershed and land management, with due participation of the population in the planning of agricultural activities.

29. Refugees were deemed to be people who had fled from their country of origin for fear of persecution. Persons who left their home country because they were hungry were not considered to be refugees within the meaning of the 1951 Convention relating to the Status of Refugees or the 1966 Protocol thereto, but they could be regarded as such if they feared persecution on returning to their country. That was precisely the situation of hunger refugees from the Democratic People's Republic of Korea, who left without a visa and who were likely to be punished on going back. With regard to regional cooperation, he had already voiced his sympathy with first-asylum countries, which were often neighbouring countries whose concerns about the massive influx of refugees were understandable. At the international level, it was therefore vital to establish a climate of trust and to help those countries to assist refugees, to provide them with temporary protection and, possibly, to resettle them. As for the quality of life in the Democratic People's Republic of Korea, the challenge was to address freedom from want and fear. His report contained various recommendations to that end. He therefore urged representatives to examine them in depth and to support any ensuing programmes implemented with the cooperation of the Democratic People's Republic of Korea.

Report of the Independent expert on the situation of human rights in Burundi: Presentation and dialogue (A/62/213)

30. **Mr. Okola** (Independent expert on the situation of human rights in Burundi), introducing his interim report (A/62/213), said that during his mission, he had focused on one important issue: solidarity with the people of Burundi in pursuit of their economic and social rights. To that end, he had timed his visit to coincide with the round-table donors conference on the Government's implementation of the Poverty Reduction Strategy. He had wanted to be present on that occasion so that he could lobby donors to provide the people of Burundi with the assistance they needed in order to benefit from the dividends of peace. He had also wanted to register his conviction that while civil and political rights were important, they should not be emphasized at the expense of economic and social rights. Donors had pledged US$ 650 million to Burundi at the round table.

31. Tensions within the ruling party, the Conseil national de défense de la démocratie-Force de défense de la démocratie (CNDD-FDD), had escalated in early 2007 because of the party leadership's involvement in the management of Government affairs. That situation had had a negative impact on the human rights situation and had polarized Burundian society to a degree that could have threatened the peace process and the stability of national institutions. Later, during his visit, concerns had been raised regarding the general tendency towards corruption, and at times scandals had implicated high-ranking officials of the Government and the ruling party. The Government had set up an anti-corruption court, but further action was needed.

32. Despite the persistence of serious violations, the overall human rights situation seemed to have improved. Relations between the State and civil society were quite a bit better and the media were able to

report on a wide range of matters without Government interference. There were few cases of human rights violations by military personnel; most of those registered concerned ill-treatment, and sometimes torture, of suspects by the police and violations of legal procedure by the police and the judiciary.

33. Arbitrary arrests had increased during the reporting period and had included cases of prolonged stay in police custody, detention in illegal places and lengthy pre-trial detention.

34. In his previous report, he had drawn attention to the massacre of over 30 civil detainees by military authorities in the province of Muyinga. The Government had established four commissions to investigate the matter but, to date, none of the reports compiled by those bodies had been made public; that suggested that the Government was not interested in disclosing their contents and wanted to shield the high-ranking public figures that they implicated. It was therefore incumbent on the people of Burundi and the international community to bring pressure to bear on the Government so that all those involved in the massacre would be brought to justice and the culture of impunity that was so deeply ingrained in the politics of Burundi would be eradicated.

35. With respect to sexual violence, over 300 cases of rape had been reported during the first five months of 2007. Despite the awareness campaigns organized by the Government, some of the victims remained silent and some of the administrative authorities and community elders continued to recommend out-of-court settlements.

36. The situation of food security had worsened during the first five months of 2007 as a result of heavy rains that had destroyed crops and houses in many parts of the country, which clearly required international humanitarian assistance until it recovered from cyclical famine.

37. Implementation of the Ceasefire Agreement between the Government, the Forces nationales pour la libération (FNL-Palipehutu) and its armed wing had not yet been implemented at the time of his visit. The Government and the FNL were deadlocked on the issues of power-sharing and demobilization; that situation, in turn, had had an impact on security in the country. During the past month, the FNL had allegedly killed 33 people in Bujumbura Rural, a fact that underscored the urgent need to implement the Ceasefire Agreement.

38. During his visit, he had drawn the authorities' attention to the issue of delays in implementation of the planned transitional justice mechanisms. They had informed him that the Government and the High Commissioner for Human Rights had reached consensus on national consultations and that the President of Burundi had confirmed to the High Commissioner that there would be no amnesty for war crimes, crimes against humanity and crimes of genocide committed during the conflict. However, the question of the relationship between the truth and reconciliation commission and the special tribunal had yet to be resolved; the Government's position was that the special tribunal's investigations should be based on referrals from the commission, while the United Nations was of the view that the tribunal should be independent of the commission in conducting its investigations.

39. For several reasons (lack of equipment, poor training, interference by politicians and corruption), the justice system in Burundi was still weak. Consequently, the population had lost faith in that system and was resorting to mob justice. Furthermore, the Government had made little progress in bringing to justice civilians and law enforcement officials who were involved in illegal activities; for example, the alleged perpetrators of the Muyinga massacre had yet to be arrested or charged.

40. In conclusion, he appealed to the Government to speed up the establishment of the truth and reconciliation commission and the special tribunal and called on the international community to support efforts to reform the justice system and provide humanitarian and development assistance. He urged the Government to release the reports on its investigation into the Muyinga massacre and bring all those involved to justice, and the Burundian authorities to investigate cases of sexual violence and bring those responsible to justice. He also urged the Government and the FLN-Palipehutu to implement the Ceasefire Agreement. Lastly, he encouraged donors to release the funds pledged at the Paris, Geneva and Brussels conferences and called on the international community to support the reform of the justice system and, in particular, the establishment of transitional justice mechanisms such as the truth and reconciliation commission and the special tribunal.

41. **Mr. Ntakirutimana** (Burundi) said that if the Peacebuilding Commission was focusing on Burundi, it was because his country needed special attention. After gaining independence, it had faced several difficult years of conflict, during which human rights had been openly flouted. The current leaders, who were still young, were survivors of that dark period in the nation's history. The Government realized that despite the considerable achievements of the past two years, much remained to be done in the field of human rights. It was determined to take action to improve that situation, including by combating corruption, but it needed help in order to make economic progress, create jobs and feed its people, who were hungry.

42. **Ms. Tavares** (Portugal), speaking on behalf of the European Union, said that in light of past experience, she viewed the role of transitional justice arrangements as crucial to future stability and reconciliation. She therefore requested further information on the mandate of the steering committee and on the implications of its work for the truth and reconciliation commission and the special tribunal. She also asked what the timetable for the steering committee's work was and what would happen once it had completed that work. She wondered how the international community could encourage the Government to take action in order to ensure that justice was done in the cases of the massacres in Gatumba and Muyinga.

43. While she welcomed the Government's efforts to improve the administration of justice in the country and the work of the United Nations Integrated Office in Burundi (BINUB)/United Nations country team, there were serious problems with Burundi's justice system (including lack of due process, arbitrary detentions, mistreatment of detainees, corruption and political influence). She asked the Independent Expert how far the review of the Code of Criminal Procedure had proceeded thus far and what action the international community should take to support further reform of the justice system. In light of the increased levels of sexual violence and the impunity enjoyed by those responsible, she also wondered whether the existing laws were adequate to deal with cases of sexual violence and whether further amendments were needed. She asked what other measures had been taken to prevent and put an end to such violence and how the problem of unwillingness to name the perpetrators could be addressed.

44. **Mr. Cabral** (Guinea-Bissau) said that the situation in Burundi could not be properly understood without taking into account all that had been achieved by the Burundian authorities. Fundamental rights were not limited to civil and political rights but also included the right to decent housing, food, work and health. He again proposed that independent experts should stay longer and more often in the countries concerned so as to be able to form a good idea of the situation and report usefully on it to the General Assembly. It was also necessary to help the Burundian authorities to stabilize the country, build peace, promote reconciliation and improve living conditions, particularly in terms of jobs, health and housing. He hoped that the independent expert would collaborate with the Peacebuilding Commission, which had done excellent work for Burundi.

45. **Ms. Mwaipopo** (United Republic of Tanzania) asked the independent expert about the past and future role of regional entities, such as the African Union and the International Conference on the Great Lakes Region, in the peace process in Burundi.

46. **Mr. Hagen** (United States of America) stressed the importance of collecting data on human rights violations when seeking to identify their perpetrators and reform institutions. He asked the independent expert to explain the assertion in paragraph 19 of the report that few human rights violations had been committed by military personnel, since it was stated in paragraphs 22 and 35 that military forces had been involved in killings and the use of forced labour, while the United States report on human rights in Burundi spoke of a number of acts of violence committed by the army.

47. **Mr. Belinga-Eboutou** (Cameroon), endorsing the remarks and the proposal made by the representative of Guinea-Bissau, said that the representative of Burundi had clearly described the situation in his country and what the international community must do to help it. Burundi had come a long way, and the current generation, made up of survivors from a period when everyone's rights had constantly been flouted, was endeavouring to promote fundamental rights. The international community should therefore examine the situation without any bias and, at the same time, increase its assistance to the country, which was essential for it not only to rebuild but also to restore civil peace.

48. **Mr. Okola** (Independent expert on the situation in Burundi) agreed that the situation in Burundi should be studied in the light of how far the country had come in the space of a few years. In 2005, against all expectations, Burundi had managed to hold elections, form a government and meet the obligations set out in the Arusha Peace and Reconciliation Agreement. The ethnic composition of the country and the importance of the role of women in society had been duly taken into account when the Government and institutions had been put in place. Several issues that had given cause for much concern two years earlier, like the integration of the army and the police force, political prisoners, demobilization and the recruitment of child soldiers, no longer required attention. Burundi had made huge progress in a short period and was now enjoying relative peace, thanks to the efforts made by its Government.

49. The Government was indeed determined to improve the situation, as was demonstrated by the continuing training of military personnel and members of the public security services and action to develop awareness of human rights, conducted in collaboration with the United Nations Integrated Office in Burundi. In response to the question put by the representative of the United States, he said that over the past two years, there had been a drop in the number of human rights violations and that, far from minimizing the problems relating to the conduct of the military forces, police and other organs of the State, he had wished to show that they were committing fewer acts of violence than previously.

50. Going on to address the questions raised by the representative of Portugal concerning the steering committee, he said that it had not yet been set up and hence did not for the time being have a mandate or a timetable. It would be mainly required to work for the reconciliation of Burundian society, but it was still not known whether it would continue to exist once the truth and reconciliation commission had been put in place. As for the investigations into the Muyinga and Gatumba massacres, there was no progress to report. It was however crucial that the Government of Burundi and the international community shed every possible light on those events.

51. With regard to the judicial system, the Penal Code was still being reviewed. As for the reform of the law on sexual offences, the President of Burundi had stated that the perpetrators would not benefit from any clemency.

52. He agreed with the representative of Guinea-Bissau that civil and political rights must not take precedence over other rights and that access to food and housing was just as important as political freedom. As for the international community's pledges of support for reconstruction, they were welcome, but they now had to be translated into reality.

53. **The Chairman**, speaking in his capacity as representative of Jamaica and member of the Peacebuilding Commission, commended the Government of Burundi for all its efforts to bolster peace and democracy and joined previous speakers in stressing that all fundamental rights should be given equal importance.

Report of the independent expert on the situation of human rights in the Democratic Republic of the Congo (A/62/313)

54. **Mr. Pacéré** (Independent expert on the situation of human rights in the Democratic Republic of the Congo), introducing his report (A/62/313), said that, notwithstanding the determination of the President elected in 2006 and the new Government to ensure respect for human rights and combat impunity, serious human rights violations continued to be perpetrated throughout the territory of the Democratic Republic of the Congo, especially by members of the armed forces and the police, and to remain unpunished. Such had been the situation noted by the Special Rapporteurs on the independence of judges and lawyers and on violence against women during their official visits to the country, in April and July 2007 respectively. There had been outbursts of violence in Bas-Congo and Kinshasa in the wake of the elections, accompanied by wholesale violations of human rights, whose perpetrators had still not been brought to justice.

55. In 2007, the situation had also deteriorated in the eastern part of the country. In North Kivu, the Bravo mixed brigade had massacred at least 15 persons in Buramba. Following the "mixage" process launched by the Government at the beginning of the year, a large number of officers loyal to the renegade general Laurent Nkunda, who were responsible for serious human rights violations, had been simply reincorporated into the army. As a result, there had been armed confrontations between the Forces démocratiques de

libération du Rwanda and the mixed brigades loyal to General Nkunda, which had exacerbated ethnic tension, created greater insecurity, triggered mass displacements of the population and led to an increase in the number of ethnically or politically motivated human rights violations. The situation was especially serious in that both sides were targeting the civilian population and were largely preventing humanitarian organizations from going into the most affected areas. Much of South Kivu was under the control of armed groups of Rwandan Hutu, who attacked civilians. In May, some 40 persons, mainly women and children, had been reported to have been wounded or hacked to death and at least seven women had been abducted by members of the Kanyola militia, in retaliation against the armed forces of the Democratic Republic of the Congo.

56. Sexual violence continued to be widespread, most notably in North Kivu and South Kivu and in Equateur province. Very few of the presumed offenders had been brought to justice. According to statistics compiled by the integrated United Nations Human Rights Office in South Kivu, between 2005 and 2007, 287 cases of rape had been referred to the civilian and military courts, while in 2005, the health services had recorded around 14,200 new cases of sexual violence, which meant that less than 1 per cent of cases had been brought to justice. In 43 cases, 80 per cent of the persons charged had been released on remand and had never again appeared before a court, and more than 80 per cent of cases had been pending for two years. In most of the cases, the victims were poor women unable to pay the legal costs demanded before enforcement of judgement.

57. The prison situation was precarious and of serious concern, because of overcrowding, poor sanitary conditions, lack of food and inadequate medical care. There was also an urgent need to address the increasing number of cases of pre-trial detention.

58. Impunity, which was largely a result of interference by political and military actors in the administration of justice, remained a major source of concern. Most serious human rights violations had not been prosecuted or even investigated. None of the serious crimes committed during the wars of 1996 and 2002 had been thoroughly investigated and many suspected war criminals continued to be appointed and promoted within the national army. The judicial system had limited resources and there were far too few judges and courts. During her visit to the Democratic Republic of the Congo in May 2007, the United Nations High Commissioner for Human Rights had spoken about human rights violations and impunity with President Kabila and other officials. She had recalled that under no circumstances should the Democratic Republic of the Congo grant amnesties to those who committed serious violations of fundamental rights and had requested the establishment of competitive recruitment for members of the defence and security forces so that those who perpetrated atrocities could not join their ranks. She had also obtained support from the Government for a credible and unprecedented map to be drawn up of the most serious violations of human rights and international humanitarian law committed between 1993 and 2003 and for an evaluation of the capacities of the Congolese judicial system, which would provide assistance in the development of a transitional justice strategy and in the establishment of appropriate mechanisms.

59. The independent expert recommended that the authorities should show zero tolerance for the perpetrators of human rights violations; put an end to political and military interference in the administration of justice; provide the judicial system with the resources and the budget required to guarantee its effectiveness and its independence; ensure that no amnesties were granted to those who committed war crimes, crimes against humanity and acts of genocide; adopt the law implementing the Rome Statute; duly support the team responsible for drawing up the map of human rights violations; initiate a process for the competitive recruitment of members of the defence and security forces; and establish a national human rights commission which conformed to international standards. The authorities would also need to take urgent measures to address the deterioration of the situation in the east of the country. In North Kivu, the integrated brigades should go through the system of brassage and serious incidents should give rise to judicial proceedings. In South Kivu, it was crucial to expedite the disarmament of armed groups of Rwandan Hutus and to punish those who committed serious crimes against civilians. It was also essential for independent and impartial investigations to be carried out into the incidents in Bas-Congo and Kinshasa, and for the persons involved in them to be tried. To that end, the security services must be punished when they committed serious human rights violations and their mandate must be brought into line with international standards. Finally, it was necessary to establish a special international tribunal or, failing that, joint

criminal chambers, to prosecute the crimes committed before 1 July 2002 and those committed since that date.

60. **Mr. Mukongo Ngay** (Democratic Republic of the Congo) said that the report of the independent expert had been prepared in the same way as the report of the previous year. However, the present report limited itself to setting out the facts without placing them in the current socio-political and economic context. The independent expert had also failed to mention the rebirth of the Democratic Republic of the Congo as a State based on law and its return to international affairs as a credible actor and partner. Indeed, after long years of crisis, the Democratic Republic of the Congo had managed to hold free and democratic elections, to pacify and reunify the territory, to establish legitimate institutions and to restore growth. It was prioritizing reconstruction and development view the aim of rolling back poverty, injustice and social inequalities. It was in that context that his country was attached to promoting the rule of law, which it badly needed to eradicate such scourges as the sexual exploitation of women and children, to cite but one example. It should be noted, however, that no State on its own could address the many challenges that the restoration of a justice system and compliance with the rule of law entailed in a post-conflict society. The Democratic Republic of the Congo was therefore committed to international justice, particularly the International Criminal Court. Nevertheless, the belief of the Congolese Government in international justice had not made it lose sight of the virtues of national justice, which alone was capable of tackling problems that had emerged during the war, including the use of rape as a weapon of war, organized crime, money-laundering, illicit trafficking in weapons and the illegal exploitation of natural resources and other forms of wealth.

61. In that respect, the Democratic Republic of the Congo was aware of the dilapidated state to which its judicial and prison systems had been reduced and it needed immediate and practical assistance in order to remedy that situation. It was on the basis of that imperative that his country would in future review the relevance both of the independent expert's mandate and of the resolutions on the human rights situation on its territory. Owing to the existence of the Human Rights Council, the Democratic Republic of the Congo would support the revision, even the withdrawal, of the independent expert's mandate and the establishment of a universal periodic review. However, in the meantime it would support the independent expert's recommendations, including those concerning the establishment of a special international criminal tribunal or joint criminal chambers, and it hoped that those recommendations would be followed by action.

62. **Mr. Nsengimana** (Rwanda) said that while the independent expert's report properly reflected the tragedy of the civilian population in certain areas of North and South Kivu, it ought to have been more in-depth and more coherent. It would have been particularly desirable for the report to dwell on the root causes of the situation in those areas of the Democratic Republic of the Congo, especially the presence and total freedom to act with impunity of the Forces démocratiques de libération du Rwanda (FDLR) and the Interahamwe militias. The report should also have made recommendations concerning those entities, if only to reflect paragraphs 23, 26, 34 and 51 to 58 of the report, which described some of the crimes and atrocities committed by FDLR and the militias in question.

63. **Mr. Cabral** (Guinea-Bissau) said that he regretted the purely descriptive nature of the report, which should have been more analytical. The report revealed inculpatory material against the Government of the Democratic Republic of the Congo but failed to present exculpatory material. In particular with regard to the conditions of detention in prisons, the independent expert's report made no reference to the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC), which had a considerable budget and a large number of staff. He therefore wished to know whether the independent expert had been given an opportunity to work with MONUC and to propose solutions to it regarding conditions of detention.

64. **Ms. Stuewer** (Canada) recalled that the Democratic Republic of the Congo had recently ratified the Pact on Security, Stability and Development in the Great Lakes Region, which included protocols on mutual legal assistance and on the prevention and suppression of sexual violence against women and children. She asked the independent expert whether he believed that regional and international support provided to implement the Pact and its protocols could improve the human rights situation in the Democratic Republic of the Congo and, if so, in what way.

65. **Mr. Hagen** (United States of America) said that he shared the independent expert's concerns regarding the state of human rights in the Democratic Republic of the Congo. He welcomed the fact that the Congolese Government had recognized the problems that it faced in that area, as demonstrated by its cooperation with the independent expert. However, it was clear that much more proactive measures must be taken to put an end to the killings, forced disappearances, acts of torture and arbitrary arrests and detentions. While the report was highly useful in its recommendations and in many other respects, it would have benefited from a closer examination of problems related to labour rights violations, particularly various types of forced labour, trafficking in persons and the recruitment of child soldiers. With regard to the latter, although the report briefly mentioned the need for the Congolese Government to combat the use of children by Government forces, armed groups and militia, it might also have reported more substantively on the unlawful recruitment of child soldiers, including children from Rwandan refugee camps.

66. **Ms. Tavares** (Portugal), speaking on behalf of the European Union, expressed the European Union's increasing concern at the persistence of violence in North Kivu province and sought the independent expert's views on the violence and its impact on the human rights and humanitarian situation in the province.

67. She wondered whether he had learned of any further developments concerning the widespread sexual violence in the conflict-affected eastern and other areas of the country since the submission of his report, including with respect to any measures taken by the Government to combat impunity. She asked to what extent sexual violence was underreported in the Democratic Republic of the Congo. It would also be interesting to know whether he had shared his assessment of that issue with the Special Rapporteur on violence against women, its causes and consequences following her visit to the Democratic Republic of the Congo.

68. She wondered whether the independent expert had discussed the recommendation on the establishment of a special international criminal tribunal or joint criminal chambers with the Congolese Government. Noting that at the most recent session of the Human Rights Council he had supported the mapping exercise of human rights violations launched by the High Commissioner for Human Rights, she sought his views on the complementarity between that initiative and his recommendations, especially with regard to their respective timing. He should provide further details on his planned visits to the Democratic Republic of the Congo in the coming months.

69. **Mr. Ntakirutimana** (Burundi), noting that the Democratic Republic of the Congo had gone through a difficult period where the law of the jungle had been the order of the day in many areas, said that the country's authorities should be encouraged to achieve their goal of peace and development. He found the report too bleak and negative; it should have at least mentioned the recent successful elections. Turning to the region, he welcomed the progress achieved by the Tripartite Commission Plus One and the Economic Community of the Great Lakes Countries in their efforts to promote the development of those countries and provide security for their people.

70. **Mr. Pacéré** (Independent expert on the situation of human rights in the Democratic Republic of the Congo), responding to the questions raised, said that given the size of the country and the magnitude and severity of its problems, it was better, for the reports to be of any use, to focus them on specific areas at a time. He had accordingly focused the current report on crimes committed by the security forces, sexual violence and the prisons situation; that did not mean that there were no problems in other areas of human rights, nor that no efforts and progress had been made in those areas.

71. While he had briefly referred to the elections at the beginning of his report, he could not expand on the matter because of the approach he had decided to adopt and the need to comply with some rules, including with respect to the number of pages per report and the length of visits.

72. In response to the European Union representative's questions with regard to the establishment of an international criminal tribunal or joint criminal chambers, he noted that with crimes being rampant, impunity was at an all time high yet, because of a lack of resources, the courts were unable to deal with the situation. The international community's assistance was therefore absolutely necessary and that was why he had recommended the establishment of an international criminal tribunal for the country or, failing that, joint criminal chambers within existing

Congolese courts, signalling a need for conducting a mapping exercise on human rights violations. The decision by the United Nations High Commissioner for Human Rights to launch the mapping exercise was intended to address that situation and was consistent with the Security Council resolution that called upon the High Commissioner to assist the Congolese Government to put an end to impunity.

73. With regard to the planned visits to the Democratic Republic of the Congo, the Bureau of the Human Rights Council had established a schedule in consultation with the Government and he intended to travel to that country on 28 November 2007 and expected to be able to return there in January or February 2008.

74. Sexual violence raised the same concerns as other human rights violations and, like those other violations, could only be stamped out when security and the system of justice were restored. The Government authorities had informed him during a meeting that every effort was made to put an end to such violations but that it was obvious that the means for achieving that goal were sorely lacking.

75. In response to the questions concerning statistics on human rights violations, he said that he was in constant touch with MONUC and the relevant bodies in order to collect information. He received 200 to 250 pages of e-mail a day on human rights violations but it was difficult to take the necessary action on all of them; it was an area where time was of the essence and he was doing the best that he could.

76. He had dealt with child soldiers at length in his 2006 report and, given the afore-mentioned constraints, had excluded the topic from his current report.

77. Reacting to the comments of the representative of Burundi, he said that there would be no peace in the Democratic Republic of the Congo unless the neighbouring States combined their efforts to assist that country's Government, which implied that they were aware of what they needed to do to ensure their own security and were also aware of the interests of neighbouring States.

78. As to the Guinea-Bissau representative's concern that MONUC was not contributing to addressing the prisons situation in the Democratic Republic of the Congo, he said that although the prisons were within the purview of the justice system and the Government, the international community could also provide assistance. In any case, because of financial regulations, MONUC funds could not be used to improve the prisons situation.

79. Lastly, referring to the comments of the representative of Rwanda, he said that he was fully aware of the disastrous situation in the eastern part of the Democratic Republic of the Congo; his analyses took into account the fact that that situation had to be understood in the light of the events that occurred in Rwanda in 1994.

The meeting rose at 6.10 p.m.

United Nations A/C.3/62/SR.28

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Chairman: Mr. Wolfe ..... (Jamaica)

Contents

Agenda item 70: Promotion and protection of human rights (*continued*)

(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (*continued*)

(c) Human rights situations and reports of special rapporteurs and representatives (*continued*)

(e) Convention on the Rights of Persons with Disabilities (*continued*)

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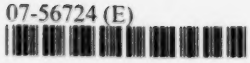

The meeting was called to order at 10.15 a.m.

Agenda item 70: Promotion and protection of human rights (*continued*) (A/62/36, 369 and 464)

(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (*continued*) (A/62/183, 207, 212, 214, 218, 222, 225, 227, 254, 255, 265, 280, 286-9, 293, 298, 304 and 317; A/C.3/62/3)

(c) Human rights situations and reports of special rapporteurs and representatives (*continued*) (A/62/213, 223, 263-4, 275, 313, 318, 354 and 498; A/C.3/62/4)

(e) Convention on the Rights of Persons with Disabilities (*continued*) (A/62/230)

1. **Mr. Nowak** (Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment) said that during his visits to Member States he had been struck by the lack of accountability for perpetrators of torture, and he stressed the need for the authorities concerned to carry out effective and independent investigations of allegations of torture. Often complainants, especially those still detained, had difficulty producing evidence of their allegations, with the end result that even credible complaints were not effectively investigated.

2. In that context, he underscored the need for expert medical examinations of complainants, but said that regrettably there were frequently no records of medical examinations; access to medical care was at the discretion of the authorities and was usually refused or simply not available due to lack of resources. In addition, there could be long delays between an alleged incident of torture and a medical examination, during which any marks or wounds could heal, and he stressed that the mere absence of physical evidence of ill-treatment did not prove that torture had not taken place. He noted that during his visits to Member States he had been assisted by independent medical experts qualified to document and assess injuries, in accordance with the Istanbul Protocol.

3. One of the most common obstacles to respect for human dignity and the prevention of torture and ill-treatment was overcrowding in places of detention, which strained infrastructure and led to a decline in conditions. Several international and regional human rights mechanisms had found that poor conditions of detention could constitute inhuman and degrading treatment. The key factor in overcrowding was the use of pretrial detention, even for non-violent or minor offences. Moreover, in many countries, criminal law focused on lengthy prison terms as the only form of punishment, even for relatively minor crimes.

4. Avoiding deprivation of liberty was one of the most effective safeguards against torture and ill-treatment. It was therefore crucial that criminal justice systems should be reformed; minor offences should be decriminalized and, even for criminal cases, there should be alternatives to pretrial detention as well as non-custodial sentences for certain offences. All stakeholders in the criminal justice system should be involved in reform, which should be guided by such international norms as the suggested alternatives to detention and information on best practices published by the United Nations Office on Drugs and Crime (UNODC) and the United Nations Standard Minimum Rules for Non-custodial Measures.

5. Since his previous report he had visited Paraguay, Nigeria, Togo and Sri Lanka. His visit to Paraguay had taken place from 22 to 29 November 2006. He welcomed the fact that Paraguay had been among the first countries to sign the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. On the basis of meetings with Government and civil society representatives, visits to detention centres and interviews with detainees, he had concluded that torture was still widely practised in Paraguay, primarily during the first days of police custody, as a means of obtaining confessions, and facilitated by impunity. The situation of torture and ill-treatment in prisons had nevertheless improved greatly, although he expressed concern at the excessive use of isolation cells to punish detainees and at allegations of beatings by guards. He was reassured by the spirit of cooperation shown by the Government of Paraguay and was confident his recommendations would be implemented.

6. He had undertaken a mission to Nigeria from 4 to 10 March 2007, and had concluded that torture and ill-treatment were widespread in police custody, in particular within the Criminal Investigation Departments. Conditions of detention in the police cells visited were appalling. He had recommended a number of measures to the Government. From 11 to 17 April 2007 he had undertaken a visit to Togo, where

he had found evidence of ill-treatment by law enforcement officials, usually for the purpose of obtaining a confession, and evidence of beatings of detainees by prison guards and other prisoners. He was also concerned that children were often subject to corporal punishment. He had recommended a number of measures to the Government.

7. He had visited Sri Lanka from 1 to 8 October 2007, and the current statement to the Committee was the first public report on his findings. In spite of the special challenges attributable to the long-standing conflict in that country, the Government had generally been able to uphold democratic principles and maintain an independent judiciary. His visit had focused mainly on detention in the ordinary justice system. The large number of complaints indicated that torture was widely practised and tended to be routine in the Terrorism Investigation Department. He had received numerous credible allegations of ill-treatment by the police, as well as the army, to obtain confessions and information, even though the 1994 Torture Act criminalized torture. Numerous indictments had been filed pursuant to the Act, but there had been only a few convictions, possibly because the high minimum sentence of seven years' imprisonment served as a disincentive to prosecutions. In addition, there were no guarantees of a prompt and impartial investigation as called for in article 12 of the Convention against Torture, and detainees faced obstacles in filing complaints and obtaining independent medical examinations.

8. Conditions of detention were affected by overcrowding and antiquated infrastructure. The conditions in certain prisons, such as the Colombo Remand Prison, amounted to degrading treatment. Although conditions were better in more modern facilities, the prison system as a whole needed structural reform. Conditions for suspects detained in Criminal or Terrorism Investigation Department facilities pursuant to the Emergency Regulations were inhuman. Despite the abolition of corporal punishment, he continued to receive complaints of corporal punishment in prisons, corroborated by medical evidence. In that regard, he noted that the Government of Sri Lanka had indicated that those complaints were being investigated. He was engaged in an ongoing constructive dialogue with the Government of Sri Lanka with regard to the implementation of his recommendations.

9. **Mr. Kariyawasam** (Sri Lanka) said that his Government was fully aware of its international obligations, and looked forward to further cooperation with the special representative. It remained committed to developing the national judicial and law enforcement infrastructure necessary to comply with the Special Rapporteur's recommendations and ensure implementation of its zero tolerance policy for torture. It recognized the need to ensure more comprehensive investigations of allegations of torture.

10. He did not agree, however, that the conditions in prisons such as Colombo Remand Prison were degrading and stressed that the conditions in the prisons were due to overcrowding caused by a lack of resources. His Government was taking steps within its resources to build new facilities and looked forward to international assistance in that regard. It had also taken steps to minimize contact between pretrial and convicted detainees. Neither did he agree that torture was widely practised; according to police statistics for the period 2002-2006 allegations of torture represented less than 0.02 per cent of total arrests. His Government had established a representative high-level task force to study the report of the Special Rapporteur, and he looked forward to assistance from donors and the international community with regard to policy development. His Government was working with the Office of the United Nations High Commissioner for Human Rights with a view to implementing the Special Rapporteur's recommendations.

11. **Ms. Tavares** (Portugal), speaking on behalf of the European Union, said she agreed that credible forensic evidence was necessary to prove torture and thereby fight impunity and noted that forensic medicine was an interdisciplinary field. She also agreed that avoiding deprivation of liberty was an important measure to prevent torture, a topic that would no doubt be taken up by the Subcommittee on Prevention of Torture.

12. The European Union deplored the fact that 23 countries had not complied with requests from the Special Rapporteur to visit their countries. She asked whether the Special Rapporteur had received any responses since May 2006 and whether he had considered the possibility of preparing a report on the situation in those countries using only external sources, as was the practice in treaty bodies. Furthermore, noting that some States did not respond to his communications or provide information on follow-up

to his recommendations, she enquired whether the European Union could be of any assistance.

13. Given the importance of inspection of places of detention in preventing torture, she asked what assistance could be provided to States in establishing national prevention mechanisms pursuant to the Optional Protocol to the Convention against Torture. Finally, she requested more detailed information on the Special Rapporteur's future missions and wondered what contribution the International Convention for the Protection of All Persons from Enforced Disappearance might make to the fight against torture.

14. **Ms. Sutikno** (Indonesia) welcomed the Special Rapporteur's recommendations concerning forensic medical examinations and non-custodial measures. She noted that her Government was committed to the elimination of torture and had invited the Special Rapporteur to visit Indonesia for a fact-finding mission on detention centres, during which a seminar on the Optional Protocol would be held for representatives of her Government and civil society. She expected that Indonesia would ratify the Optional Protocol in the near future. She asked for more information on the role that promotional activities like the seminar to be held during his visit to Indonesia could have in preventing torture.

15. **Mr. Khanijooyabad** (Islamic Republic of Iran) took note of the Special Rapporteur's recommendation concerning the need for technical assistance for capacity-building in the area of forensic expertise and said he would welcome more information on possible methods of intergovernmental cooperation in that regard. He also requested information on the use of torture in the context of counter-terrorism measures, especially the use of secret detention centres. His delegation had taken note of the Special Rapporteur's views and looked forward to strengthening its cooperation with the Special Rapporteur on mutually agreeable terms with a view to eliminating torture.

16. **Ms. Hubert** (Norway) said that the medical specializations and backgrounds of persons identified as forensic medical experts could vary according to country and wondered whether the Special Rapporteur had any recommendations with regard to the qualifications necessary for such experts. Turning to the provisions of the Istanbul Protocol relating to investigation and documentation procedures, she asked whether there was any margin of discretion for the implementation of those measures in a national context.

17. **Mr. Ke** Youshang (China) said that his Government was in the process of implementing the recommendations made by the Special Rapporteur after visiting the country in 2005, and had submitted updated information in September 2006. It was untrue that Chinese legislation did not clearly define torture as a crime or that there was a reluctance to combat impunity for perpetrators. His Government attached great importance to the elimination of torture and had adopted detailed legislative and administrative measures to that end which were largely in conformity with the Convention. For example, the use of violence and ill-treatment were criminal offences. A law had been passed in July 2006 outlawing the torture or abuse of detainees, and on 28 October the Lawyers Act had been adopted, which contained strong human rights guarantees.

18. Greater efforts had been made to increase training in human rights for law enforcement personnel and prosecute perpetrators. His Government looked forward to continued cooperation with the special mechanisms of the United Nations, and he hoped that the Special Rapporteur would carry out his mandate in an objective and impartial manner taking into account the difficulties faced by individual States as well as progress made.

19. **Mr. Akindele** (Nigeria) said that his Government was committed to the rule of law and was doing its utmost within the resources available to combat torture and impunity. The Special Rapporteur had focused on two isolated cases of abuse of detainees awaiting trial, and he stressed that in proven cases of abuse the guilty police officers were dismissed. In the context of ongoing justice system reforms, two police Inspectors-General had been dismissed. Efforts were also under way to reduce the number of prisoners in pretrial detention and overhaul the prison system. His Government would continue to take seriously any allegation of torture and looked forward to continuing dialogue with the Special Rapporteur, who had taken note of the complexity of the situation in Nigeria, a developing country with limited resources and more than 300 ethnic groups.

20. **Mr. Vigny** (Switzerland) welcomed the comprehensive overview provided by the Special Rapporteur of his mission to Sri Lanka. The

widespread use of torture was not limited to situations arising out of the ongoing conflict, however, and he asked whether the Special Rapporteur had any suggestions on how to strengthen the national prevention mechanisms with a view to combating impunity.

21. **Ms. Nyberg** (Finland) requested further elaboration on how to ensure that the absence of physical marks was not given undue importance. She would also welcome more examples and possible best practices concerning the implementation of article 40, paragraph 4, of the Convention on the Rights of the Child regarding alternatives to detention.

22. **Mr. Montwedi** (South Africa) said that the report of the Special Rapporteur would help to strengthen the international human rights system. His Government would welcome a visit by the Special Rapporteur. He would appreciate the Special Rapporteur's views on the allegations of renditions leading to torture and in some cases the death penalty. Renditions should be conducted in a way that led to criminal prosecutions and justice.

23. **Mr. Abass** (Iraq) reiterated his Government's invitation to the Special Rapporteur to visit Iraq. The Government was currently incorporating the terms of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment into national legislation and making every effort to combat impunity for perpetrators of torture.

24. **Ms. Drescher** (Canada) said that her Government remained deeply concerned at the prevailing climate of impunity; she called attention to the obligation to prosecute or extradite alleged perpetrators of torture under the Convention. She would appreciate further elaboration on the role of United Nations bodies in promoting access to forensic expertise.

25. **Mr. Chihuailaf** (Chile) said that the Special Rapporteur should continue to meet with regional mechanisms. His delegation took particular note of the comments in the report concerning forensic experts, impunity and non-custodial measures. States often lacked the necessary resources to fund forensic medicine. Chile therefore supported the proposal to promote forensic capacity-building and would welcome further details on how that could be accomplished.

26. **Mr. Peralta** (Paraguay) said that his Government would continue to work closely with the Special Rapporteur. The procedures by the police and prosecution services in Paraguay during criminal investigations had improved considerably since his visit in November 2006. New places of detention were also being built.

27. **Mr. Nowak** (Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment) commended the Government of Sri Lanka on its cooperation. He said it was important not only to establish facts but also to start the process of cooperation, and recommended that international agencies should support Governments in their efforts to implement his recommendations. Concerning the issue of requests for country visits, he was grateful for the invitations extended to him. He was currently engaged in dialogue with the Governments of Zimbabwe and Uzbekistan and would welcome an invitation to visit those countries.

28. With regard to assisting States in implementing the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment or facilitating ratification, he said that his experience with the Government of Paraguay had been extremely positive. He had been able to work with the Government and non-governmental organizations at a joint seminar to establish the minimum requirements of a national preventive mechanism. Much had been done already to put such a mechanism in place. He hoped to do the same in Indonesia, which had not yet ratified the Optional Protocol. Such a mechanism must be independent but must also receive sufficient financial support. He called on the donor community to assist Governments in establishing effective national mechanisms, which implied fairly high costs.

29. Many of the preventive mechanisms provided for in the International Convention for the Protection of All Persons from Enforced Disappearance were similar to those contained in the Convention against Torture. There should be a register of every detainee, if possible a centralized one. Every form of enforced disappearance and secret place of detention amounted to inhuman or degrading treatment. If enforced disappearance occurred over a long period, it was tantamount to torture, even if the application of torture could not be established.

30. Regarding counter-terrorism, he remained extremely concerned at some of the counter-terrorism measures adopted by many countries, particularly if terrorist suspects were held in secret places of detention. He referred to article 17 of the International Convention. Nevertheless, even without that article, any secret place of detention constituted enforced disappearance. He called on all Governments engaged in secret detention to cease the practice and to provide even the most high-level terrorist suspects with the minimum standards of the rule of law.

31. Forensic medicine was indeed a broad discipline which involved not only medical doctors but also anthropologists and other experts. He was always accompanied on his missions by highly qualified forensic medical doctors, who must be able to corroborate the claims of alleged victims of torture. The doctors were able to determine whether injuries were inflicted by others or self-inflicted.

32. He was grateful for the information from China on recent developments. He would welcome the information on new legislation in writing. He was still awaiting a response to the allegations which he had brought to the attention of the delegation in relation to organ harvesting in order to include it in his forthcoming report to the Human Rights Council. He also thanked the representative of Nigeria for the updated information on the release of pretrial detainees. He would appreciate details on three detainees for whom he had requested medical assistance.

33. Concerning impunity in Sri Lanka, he was concerned that people could be held for a long time in places which were not suitable for long-term detention. Much was being done to investigate cases. However, a minimum sentence of seven years for persons found guilty of torture served as a disincentive for courts to hand down sentences. There were only three persons in the past 13 years who had been sentenced for the crime.

34. In response to the question regarding torture which did not leave physical marks, psychiatrists and forensic experts were in a position to look into long-term post-traumatic stress disorder and other symptoms to determine whether a person had been subjected to torture. There was therefore a need for full access to alleged victims of torture, in particular when they were removed from police detention to pretrial detention.

35. He fully concurred that the allegations of the use of torture in renditions should lead to criminal prosecution. That was the problem with extraordinary rendition. The purpose was not to send persons to countries where they would be brought to justice, but rather to send them where there were fairly harsh interrogation methods. The way in which persons were treated during the rendition process also violated the prohibition of torture and ill-treatment.

36. As there were many countries which lacked qualified forensic experts, he called on the international community to assist States in establishing their own independent forensic services. Concerning the comment by Chile, he was very interested in further cooperation with regional mechanisms, in particular the Inter-American Commission on Human Rights and the African Commission on Human and Peoples' Rights.

37. **Mr. Kälin** (Representative of the Secretary-General on the human rights of internally displaced persons) said that the protection of internally displaced persons entailed durable solutions to their displacement, including voluntary return to their places of origin. Some Governments, including those of Uganda, Côte d'Ivoire and Nepal, had made remarkable efforts towards that end. Nevertheless, more must be done to assist returns and ensure sustainability. In Turkey the considerable efforts to find durable solutions for the displaced must continue. In other countries, particularly in the South Caucasus, where the lack of peace agreements meant that return was not yet a real option for many internally displaced persons, Governments had taken important initiatives to improve the living conditions of marginalized communities which had been displaced for more than a decade. In fact, helping internally displaced persons to lead normal lives during their displacement went hand in hand with safeguarding their right of return.

38. He commended the Government of Georgia on its national strategy for internally displaced persons and encouraged it to finalize and implement a comprehensive action plan which would enhance their rights in accordance with the Guiding Principles on Internal Displacement. Azerbaijan had invested significant resources in improving the living conditions of some 700,000 internally displaced persons pending their return to their place of origin. Newly constructed settlements had made it possible for camps to be closed. He welcomed the Government's plan to close

the remaining camps by the end of 2007 and encouraged it to end any practices deemed discriminatory, such as in the area of education. Armenia should take the opportunity to remove itself from the list of countries experiencing displacement by undertaking a concerted effort to allow the relatively small group of remaining internally displaced persons to return to their place of origin or to become integrated in the places to which they had been displaced.

39. He had developed a framework for durable solutions for internally displaced persons in cooperation with humanitarian agencies and NGOs; the framework set forth benchmarks to determine when the needs, vulnerabilities and violations of rights that characterized situations of internal displacement could be considered to have come to an end. The durable solutions included the return to the place of origin, local integration into the areas in which internally displaced persons had initially taken refuge and settlement in another part of the country. Displacement ended when one of those durable solutions occurred and when internally displaced persons no longer had needs specifically related to their displacement.

40. Resolving internal displacement and achieving durable solutions were inextricably linked with achieving lasting peace. Internally displaced persons had particular vulnerabilities not encountered by refugees or by other civilians affected by conflict. Peace agreements therefore needed to focus on the rights and needs of such persons. They were reluctant to return to their place of origin or risked being displaced again in post-conflict areas in which militias had not been disarmed or landmines removed. Large-scale return was also unlikely in cases in which internally displaced persons were unable to recover their land or property. Settlement or return was not sustainable when insufficient reconstruction and economic rehabilitation prevented the displaced from resuming their livelihood. Impunity diminished the prospects for reconciliation between the displaced and those responsible for their displacement. The rights and needs of internally displaced persons must be taken into account in peace negotiations and agreements. He drew attention to a report by the Brookings Institution and the University of Bern Project on Internal Displacement, entitled *When Displacement Ends: A Framework for Durable Solutions*, which identified displacement-related issues for incorporation in peace agreements as well as good practices for doing so. It also underlined the need to mainstream those issues into peacebuilding activities and emphasized the unique institutional opportunity offered by the Peacebuilding Commission.

41. He noted with concern the serious gaps in funding mechanisms for protection, transitory assistance and early recovery activities following the conclusion of peace agreements. In Côte d'Ivoire, for instance, the Office of the United Nations High Commissioner for Refugees (UNHCR) and other organizations might be forced to close their offices because of the lack of donor support.

42. He noted with satisfaction that several situations had improved over the previous year, such as in Nepal, southern Sudan and northern Uganda, although the latter situation remained critical. However, there were still too many countries with troubling situations. About 25 per cent of the population in the north of the Central African Republic was displaced. During his official mission in February 2007, he had appealed to the Government as well as rebel groups to adhere to the fundamental tenets of international human rights and international humanitarian law and to address the prevailing impunity. He was concerned that the growing displacement in Afghanistan had the potential to increase dramatically given the escalating hostilities and disregard for international humanitarian law. The restrictions on humanitarian access were also particularly worrying. He remained extremely concerned about the situation in Iraq with its estimated 2.2 million internally displaced persons, whose numbers continued to grow. Attempts by some regional and local authorities to stop the entry of persons seeking refuge were deeply troubling.

43. He also noted with concern the situation in Somalia, where more than 300,000 persons had been displaced in recent months, adding to existing displaced population of 400,000 persons, as well as the situation in East Timor, where more than 10 per cent of the population remained displaced. He was concerned at the large numbers of persons displaced by the conflict in Sri Lanka, and was grateful to the Government for its invitation to visit in December 2007. While certain returns had become possible in the Democratic Republic of Congo in 2007, new displacements continued in the eastern part of the country, notably in North Kivu, caused by recent violence, including systematic rape. The capacities of

the Government and the international community to assist and protect the displaced remained insufficient. He welcomed the invitation by the Government of the Sudan to visit Darfur in the spring of 2008. The situation of roughly 2 million internally displaced persons in Darfur remained one of the most serious in the world. He called on all parties to the conflict and all stakeholders to take full advantage of the current and forthcoming peace talks, as well as the deployment of a hybrid force, to create conditions to end violence against the displaced, to allow unimpeded humanitarian access and to facilitate sustainable return.

44. **Ms. Patricio** (Portugal), speaking on behalf of the European Union, asked what measures were being taken by the Representative of the Secretary-General in order to follow up country visits and the implementation of his recommendations. She would also welcome information on his cooperation with the United Nations system, particularly through the Inter-Agency Standing Committee (IASC); on steps he took to ensure wide use of the Guiding Principles on Internal Displacement, particularly in the peace and peacebuilding processes; and on his approach to involving non-State actors in a human rights dialogue with a view to promoting compliance with the Guiding Principles. Lastly, she would like to know how, in his view, the Peacebuilding Commission could best address the plight of internally displaced persons.

45. **Ms. Salayeva** (Azerbaijan), stressing the importance of urban internally displaced persons, noted that her country continued to implement plans for improving the condition of some 12,000 families still residing in camps and school buildings and moving them to newly built settlements. Her Government planned further to strengthen its cooperation with the United Nations and other international bodies with a view to implementing a "great return programme" once the occupied territories of Azerbaijan were liberated.

46. **Mr. Vigny** (Switzerland) asked what approach the Representative of the Secretary-General would suggest to the complex issue of access to internally displaced persons and how the Representative planned to ensure follow-up of his activities and proposals regarding those persons and their role in peace processes.

47. **Mr. Rees** (United States of America) stated that his delegation appreciated the role of the Representative of the Secretary-General, considered the protection of internally displaced persons to be a major humanitarian challenge and applauded the "cluster approach" adopted by the Inter-Agency Standing Committee. Noting that in situations of armed conflict it was necessary to work quickly and efficiently to protect civilians and that internally displaced civilians living in camps were not always protected from serious human rights violations, he stressed that the primary responsibility for protecting civilians lay with their Government and that international efforts should complement that function. However, where a State was unable or unwilling to protect its civilians, the international community had a role to play. His delegation would welcome any update that the Representative of the Secretary-General could provide regarding, first, an initiative aimed at raising awareness of protection requirements after natural disasters and, second, the development of an international database of national laws and policies on internally displaced persons.

48. **Ms. Khvan** (Russian Federation) enquired about Government measures that the Representative of the Secretary-General considered most effective in achieving long-term solutions for internally displaced persons in the framework of a peace process. She also asked what criteria should be used in determining under what conditions and after how long a period persons should cease to be considered internally displaced. Lastly, she would welcome information on the implementation of the Guiding Principles at the national level.

49. **Mr. Valvatne** (Norway), noting that human rights mainstreaming was an important part of the mandate of the Representative of the Secretary-General and that issues regarding internally displaced persons were dealt with by various United Nations agencies, asked for further details about the Representative's current and future mainstreaming activities.

50. **Mr. Amangoua** (Côte d'Ivoire) stated that the protection of human rights, particularly in time of war, was a priority for his Government. Since the signing of the Ouagadougou agreements the social and political situation had improved and some internally displaced persons had returned to the north and west of the country. To improve security further, the police and gendarmerie capacities should be enhanced. To that end, his Government requested a partial lifting of the embargo on non-lethal weapons.

51. His delegation was concerned about unfounded references in various resolutions and other documents to human rights violations in Côte d'Ivoire, including trafficking in children and economic and sexual exploitation of internally displaced persons. Such recurring allegations were contradicted by the report of the Representative of the Secretary-General, among others.

52. **Mr. Kariyawasam** (Sri Lanka) said that, after the restoration of law and order in the Eastern Province of Sri Lanka, 108,000 internally displaced persons had returned to their homes and about 50,000 more would be settled soon. The process had been voluntary and had taken place in conformity with international standards. The issue of internally displaced persons in Sri Lanka was complex. For instance, 90,000 Muslims had become internally displaced when a terrorist group had evicted them from their area. While a lasting solution should be sought, the number of internally displaced persons in Sri Lanka had recently decreased.

53. **Ms. Tchitanava** (Georgia) said that the radical separatist regimes in two regions of Georgia, Abkhazia and Tskhinvali Region/South Ossetia, had exterminated the Georgian population and forced about 250,000 survivors, including other nationalities, to flee. Repatriation was hampered by the absence of a political solution to the conflict, discriminatory measures imposed by the de facto authorities against returnees and widespread insecurity. The Representative of the Secretary-General had urged the separatist regime to refrain from measures incompatible with the right of return and with international human rights standards, and had called on the parties to cooperate in creating conditions conducive to the voluntary return of displaced persons.

54. The Government of Georgia made every effort to improve the housing, education, health and employment situation for the displaced population. To that end, it had adopted in 2007 a special strategy based on international human rights law and the Guiding Principles on Internal Displacement. The implementation of that strategy required efforts by all relevant stakeholders and considerable donor support. Work was also under way on a comprehensive action plan for internally displaced persons, including property restitution provisions consistent with international standards. The issue of internally displaced persons required intensive cooperation between Governments, United Nations agencies and NGOs.

55. **Mr. Abass** (Iraq) said that his Government sought to create an environment conducive to the return of displaced persons by combating lawlessness on an impartial basis, providing basic services and improving the economy. Those efforts required considerable contributions from the international community and the international financial institutions. The Iraqi Government had planned a conference on assistance to displaced Iraqis and on reducing the concomitant burden on host countries, particularly Jordan and the Syrian Arab Republic. The Government had also developed a framework for cooperation with the United Nations and host countries regarding health and education issues related to displaced Iraqis. There were plans to set up offices in countries with many displaced Iraqis in order to assist them.

56. **Mr. Ahmed** (Sudan) said that cooperation between the Sudan and the international community for a lasting solution to the problem of Darfur was a priority for his Government and had recently taken the form of a so-called hybrid operation. Referring to recent allegations concerning trafficking in children among internally displaced persons, he asked what measures would be taken in order to protect those children.

57. **Ms. Katabarwa** (Uganda) said that since the cessation of hostilities between the Government and the Lord's Resistance Army in northern Uganda, many internally displaced persons, up to 90 per cent of the population of some camps, had returned to their homes. However, near the source of the problem, namely, close to southern Sudan and northern Democratic Republic of the Congo, displaced people had preferred to move into camps pending the outcome of peace talks. The Government had launched a peace, recovery and development programme which provided for the voluntary return of the displaced. Internally displaced persons were consulted and allowed to move where they thought that conditions were safer and more comfortable. In the areas concerned, law enforcement capacity had been improved, army presence reduced and the court system restored and made accessible. Internally displaced persons were involved in planning and would take part in the implementation, monitoring and evaluation of the peace and development efforts. The Government had recently signed further

conciliation agreements with the Lord's Resistance Army.

58. **Mr. Kälin** (Representative of the Secretary-General on the human rights of internally displaced persons), replying to the representatives of Portugal and Norway, said that he considered cooperation with the Inter-Agency Standing Committee and the countries concerned to be essential. He worked closely with country teams, briefed agencies regularly and tried to make follow-up visits. His mainstreaming efforts were facilitated by memorandums of understanding that he had signed with OHCHR and UNHCR.

59. Replying to the representatives of Portugal, Russia and the United States, he said that he advocated the incorporation of the Guiding Principles into domestic law and policies and appreciated support for the international database, to be launched very soon. The related manual for Government staff would be available in the summer of 2008.

60. Referring to cooperation at the regional level, he said that, after the ratification of the Great Lakes protocol on internally displaced persons, which had strengthened the relevant normative framework, he was looking forward to an African Union convention, to which he had been invited to contribute. The Convention would focus on Governments' and the Union's responsibility with regard to displaced population groups.

61. Replying to the representative of Portugal, he said that the approach to be taken to non-State actors depended on the particular context and the attitude of the Government concerned.

62. Replying to questions about peacebuilding, he said that he would continue his dialogue with the United Nations Peacebuilding Commission with a view to contributing some of his insights and profiting from lessons learned. In 2008, he would work on a manual for peace mediators and negotiators.

63. With regard to natural disasters, in addition to the relevant operational guidelines to which he had referred in 2006, he would soon make available a field manual. In promoting a rights-based approach, he had received support from local Government authorities and NGOs providing relief and had sought to cooperate with national human rights institutions in relation to human rights monitoring and protection.

64. Replying to the representative of the Sudan, he said that trafficking in children was unacceptable regardless of whether the children belonged to internally displaced families.

65. Replying to a question by the representative of Switzerland, he emphasized the importance of access to internally displaced persons for humanitarian purposes and stressed the need for systematic monitoring to identify inadequate access possibilities and the underlying causes. Regular dialogue with all actors was crucial. Providing assistance to vulnerable groups did not imply taking sides in a conflict, but was an impartial act.

66. **Mr. Scheinin** (Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism), introducing his report (A/62/263), said that in 2007, he had conducted successful missions to South Africa, the United States of America and Israel, including the Occupied Palestinian Territory, and he expected to visit the Philippines and Spain in 2008. He was, however, troubled at the slow progress in finalizing the dates for an official visit to the Philippines.

67. The report focused on the challenges that counter-terrorism measures posed to compliance with refugee law and the provision of international protection. In many parts of the world, such measures disproportionately affected asylum-seekers, refugees and immigrants. The report underscored that human rights law and refugee law, as developed over the decades, took proper account of the security concerns of States, and that addressing terrorism did not justify the revamping of standards and principles of international protection.

68. The report highlighted certain issues that had a particular bearing on the possibility of individuals to have access to refugee protection and the determination by States of individuals' need for international protection. Those issues included pre-entry interception and screening measures; treatment of asylum-seekers, exclusion from refugee or other protection status, including in relation to the application of the principle of non-refoulement; repatriation or resettlement of persons detained for terrorism-related reasons, and strengthening global responsibility for international protection. Responding to frequent patterns of mandatory or indefinite detention of asylum-seekers, the report urged States not

to depart from the principle of judicial review of the lawfulness of any form of detention.

69. The issue of so-called diplomatic assurances had figured strongly in recent debates on action to combat terrorism and the principle of non-refoulement. His position on the matter was summarized in the report: first, diplomatic assurances could never absolve the sending State of its duty to individually assess the existence of real risk; second, diplomatic assurances could at best be considered as one of several factors to be addressed in the individual assessment of risk; third, such assessment of risk must be subject to effective and independent, preferably judicial, safeguards; and fourth, as diplomatic assurances against torture or inhuman treatment tended not to work in practice, he discouraged the establishment of removal or resettlement mechanisms where such assurances would play a central role.

70. On the issue of release, repatriation and resettlement of detainees held for counter-terrorism reasons in various parts of the world, he welcomed signs that the Government of the United States planned to close the military detention facility at Guantánamo Bay, as recommended in the report.

71. During his visit to the United States he had not been guaranteed a possibility to interview, in private, inmates at the Guantánamo Bay detention facility or other places where the United States Government held persons suspected of terrorist acts. He had therefore not been able to visit those facilities, which was regrettable since all his other country visits, to Turkey, South Africa and Israel, had included unimpeded access to terrorism detainees. After his visit, the Government had extended an invitation to visit Guantánamo Bay for the purpose of observing proceedings before military commissions. He welcomed that invitation and said he would be holding further consultations with the Government shortly.

72. **Ms. Castelo** (Portugal), referring to the adoption of increased border security as a counter-terrorism measure, said she would welcome the Special Rapporteur's recommendations on how States could implement effective border controls while complying with human rights law and refugee law, especially with respect to the principle of non-refoulement. She also invited the Special Rapporteur to comment on his contacts with regional organizations, other United Nations bodies and future prospects for such cooperation.

73. **Mr. Vigny** (Switzerland) enquired about the safeguards and rights that should be respected in the case of detainees brought to trial. He would also welcome the Special Rapporteur's opinion on the trial of civilians in military courts. He asked whether, in implementing the Global Counter-Terrorism Strategy, there were sufficient institutional safeguards within the United Nations system to ensure that a proper balance was maintained between the protection of human rights and counter-terrorism measures.

74. **Mr. Khani Jooyabad** (Islamic Republic of Iran) said that the "war on terror" had triggered a "war of terror" against Muslims, among others. Minority groups, migrant asylum-seekers and foreigners living in Western countries were subject to frequent violations of their fundamental rights, including threats to their right to life, excessive surveillance, degradation, extreme media pressure and inhumane treatment, particularly by law enforcement officers. Against that background, he would welcome an update by the Special Rapporteur on the situation regarding profiling.

75. **Mr. Schlosser** (Israel) thanked the Special Rapporteur for his recent visit to Israel and noted the constructive dialogue between the Special Rapporteur and the Israeli Government. He appreciated the Special Rapporteur's acknowledgement of Israel's legitimate security concerns, and said the Special Rapporteur's initial recommendations were already under serious consideration by the Government. While Israel had the duty to protect its citizens, it had also set human rights among its highest priorities, and the Government reserved the right to comment further in future.

76. **Mr. Jokinen** (Finland) requested additional insight from the Special Rapporteur on the identification and dissemination of best practices in countering terrorism and on the definition of terrorism. In paragraph 77 of the report, the Special Rapporteur noted with satisfaction the commitment undertaken by States in the United Nations Global Counter-Terrorism Strategy and its plan of action to the standards of international law in guiding their actions. He was therefore curious to know what further steps would be required in that regard.

77. **Ms. Sutikno** (Indonesia) commended the independence and expertise of the Special Rapporteur

in the discharge of his mandate. She said that Indonesia's stance against terrorism and its approach to countering acts of terrorism in compliance with human rights obligations had been well recognized. The provision of judicial guarantees to persons suspected of terrorism was an absolute principle.

78. Concurring with the observations of the Special Rapporteur on racial profiling, she requested an update on recent trends concerning that practice and wondered whether the Special Rapporteur had detected improvements since reporting to the Human Rights Council in March 2007. She also wished to know whether the Special Rapporteur had held consultations with other relevant special procedures of the United Nations, including the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance.

79. **Mr. Montwedi** (South Africa) said that the Government of South Africa had adopted national collective measures to implement most of the Special Rapporteur's recommendations. His delegation looked forward to engaging in further discussions on the mission report when it was submitted to the December 2007 session of the Human Rights Council.

80. **Mr. Rees** (United States of America) expressed his Government's appreciation for the visit of the Special Rapporteur, which had included an invitation to visit Guantánamo Bay on the same terms as those offered to other international visitors. The United States looked forward to moving towards the day when Guantánamo could be closed, and supported the appeal in the report for States to receive persons currently detained at Guantánamo for resettlement. His Government had been pleased to offer the Special Rapporteur an opportunity to observe military commission hearings at Guantánamo in November 2007, and regretted that prior engagements had prevented the Special Rapporteur from accepting the invitation.

81. The proceedings of the military commissions should be as transparent as possible; to that end, domestic and international observers would be invited to attend future proceedings. The Government had worked hard to ensure that the military commissions were fully consistent with all applicable law, including the Geneva Conventions, and looked forward to holding accountable persons who had committed terrible war crimes, including the attacks of 11 September 2001.

82. **Mr. Scheinin** (Special Rapporteur) said that he looked forward to discussing his mission reports when they were presented to the Human Rights Council in December 2007. In response to the questions posed by the representatives of the Islamic Republic of Iran and Indonesia on profiling, he said that phenomenon was one of the most troubling issues in considering the effects of counter-terrorism measures on human rights because it could amount to discrimination on the basis of ethnic, religious or other grounds. His ongoing work in that regard was conducted on a country-specific basis; he usually raised the subject of profiling with States and discussed available options and measures to eradicate the practice. After refugees, it appeared that the group of persons subjected to profiling was the second largest to suffer from the adoption of counter-terrorism measures. He was currently in the process of compiling best practices in the field of counter-terrorism while respecting human rights, and would recommend alternatives to negative profiling practices.

83. With regard to border controls, interception and non-refoulement, professionalism on the part of border control officials was crucial. It was alarming that the border security of sovereign States was increasingly provided by private corporations. All bodies carrying out those functions, whether military, public or private entities, should exercise greater professionalism. They needed, for example, to be sensitized on the role of human rights, with respect to the detection of persons who needed international protection.

84. Concerning non-refoulement, the important dimension of professionalism was a thorough awareness of the jurisprudence and practice of international human rights bodies and regional human rights courts, regarding both substantive and procedural issues.

85. He continued to engage in active cooperation with regional organizations, notably the African Union, the Inter-American Commission on Human Rights and various European bodies. Concerning his cooperation with United Nations bodies, he emphasized the importance of addressing the issue of protecting human rights while countering terrorism together with the Organization's political bodies, such as the Security Council and the Counter-Terrorism Committee and its Executive Directorate. The Counter-Terrorism Implementation Task Force was also an excellent framework for further mainstreaming human rights concerns into counter-terrorism work.

86. He reaffirmed his commitment to compiling a list of best practices, but noted that the best practices identified through country visits were often mixed with problematic dimensions that could not be recommended to other States. One example was the definition of terrorism in South Africa, which represented a best practice in the sense that it had a structure of cumulative conditions that had to be met. At the same time, the list of crimes covered was overly broad. However, he commended South Africa for its effective parliamentary control over the registration of suspected terrorists, and for the absence of special modified procedures.

87. Best practices in the United States included the rejection of profiling by the Department of Homeland Security, community outreach, the role of the free media in controlling counter-terrorism measures by the executive and the role of the judiciary in exercising independent judicial control over such measures. He also praised the level of support granted to victims of terrorism, in terms of health care, compensation and rehabilitation.

88. Israel's example of best practices also contained a problematic dimension. Like the United States, Israel applied the concept of "unlawful combatant". In that context, however, the existence of periodic judicial reviews over that classification was commendable.

89. The question raised by the representative of Finland on the Global Strategy fell within the ambit of his response regarding cooperation with United Nations bodies and the Counter-Terrorism Implementation Task Force. He hoped that future Security Council resolutions would recognize the obligation of the United Nations itself to comply with human rights while countering terrorism.

90. Replying to the representative of Switzerland, he said that the provision of effective and speedy access to courts was indispensable in ensuring that the rights of persons detained on suspicion of terrorism were respected. It was necessary for courts to ascertain the legality of detentions, regardless of the context in which the detentions were carried out. With reference to the trial of civilians by military courts, he drew attention to General Comment No. 32 of the Human Rights Committee on article 14 of the International Covenant on Civil and Political Rights, which clearly stated that human rights law did not prohibit military courts. However, the General Comment convincingly explained that it might be difficult for such courts to fulfil certain requirements, such as independence and impartiality, and concluded that every effort should be made to avoid trials by military courts.

91. Concerning the existence of safeguards within the United Nations for the protection of human rights, he noted the obligation of the Security Council in that connection. There was also scope for further reform of the sanctions regime, which should be made more transparent and subject to independent review.

The meeting rose at 1.05 p.m.

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Chairman: Mr. Wolfe ..... (Jamaica)

Contents

Agenda item 70: Promotion and protection of human rights (*continued*)

(b) Human rights questions including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (*continued*)

(c) Human rights situations and reports of special rapporteurs and representatives (*continued*)

(e) Convention on the Rights of Persons with Disabilities (*continued*)

Agenda item 62: Social development (*continued*)

(b) Social development, including questions relating to the world social situation and to youth, ageing, disabled persons and the family (*continued*)

Agenda item 63: Advancement of women (*continued*)

(a) Advancement of women (*continued*)

Agenda item 66: Promotion and protection of the rights of children (*continued*)

(a) Promotion and protection of the rights of children (*continued*)

Agenda item 70: Promotion and protection of human rights (*continued*)

(a) Implementation of human rights instruments (*continued*)

(b) Human rights questions, including alternative approaches for improving the effective exercise of human rights and fundamental freedoms (*continued*)

(c) Human rights situations and reports of special rapporteurs and representatives (*continued*)

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07-56730 (E)

(e) Convention on the Rights of Persons with Disabilities (*continued*)

(f) Celebration of the sixtieth anniversary of the Universal Declaration of Human Rights (*continued*)

The meeting was called to order at 3.15 p.m.

Agenda item 70: Promotion and protection of human rights (*continued*)

(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (*continued*) (A/62/183, A/62/207, A/62/212, A/62/214, A/62/218, A/62/222, A/62/225, A/62/227, A/62/254, A/62/255, A/62/265, A/62/280, A/62/286, A/62/287-289, A/62/293, A/62/298, A/62/304 and A/62/317; A/C.3/62/3)

(c) Human rights situations and reports of special rapporteurs and representatives (*continued*) (A/62/213, A/62/223, A/62/263, A/62/264, A/62/275, A/62/313, A/62/318, A/62/354 and A/62/498; A/C.3/62/41)

(e) Convention on the Rights of Persons with Disabilities (*continued*) (A/62/230)

1. **Mr. Pascoe** (Under-Secretary-General for Political Affairs), introducing the report of the Secretary-General on the situation of human rights in Myanmar (A/62/498), said that it was based on the good offices mandate of Mr. Gambari, Special Envoy of the Secretary-General for Myanmar. The sudden decision of the Government on 19 August 2007 to raise fuel prices had triggered demonstrations which had at first been peaceful. Reports indicated that the Government had used lethal force to disperse the protesters. The number of casualties suggested excessive use of force and violence by the security forces. Shocked, the Secretary-General had been among the first to react and had called for restraint and dialogue, a call that had been joined by the United Nations High Commissioner for Human Rights and the Special Rapporteur on the situation of human rights in Myanmar.

2. The situation in Myanmar remained of serious concern in the light of continuing reports of abuses by security and non-uniformed personnel, particularly at night during the curfew, in the form of raids on private homes, beatings, arbitrary arrests, and disappearances. Dispatched to the area on 26 September, the Special Envoy, speaking on behalf of the Secretary-General, had expressed the international community's deep concern in the strongest possible terms. The Human Rights Council and the Security Council had officially deplored those acts of repression, the former in a resolution and the latter in a presidential statement, and had called for a return to genuine dialogue among the parties. The Government of Myanmar had since lifted the curfew, released 2,677 persons arrested during the demonstrations, appointed the Minister of Labour as liaison officer to facilitate communication between the authorities and Daw Aung San Suu Kyi and announced that it would welcome a further visit from the Special Rapporteur and the Special Envoy. The latter had conveyed messages between the senior leadership and Daw Aung San Suu Kyi, who had since met the Minister of Labour. The Secretary-General, like the international community, believed that a return to the status quo ante was no longer an option or sustainable and had therefore requested the Special Envoy to return to the region and to Myanmar in particular. Expressing satisfaction at the support of leaders in the region and the entire international community for the good offices efforts of the United Nations, which were based on guiding principles outlined in the report, he said that those efforts now focused on three objectives: (a) to follow up implementation of the immediate steps recommended to the Government to de-escalate the crisis; (b) to facilitate the implementation of the recommendations made to the Government to pursue an inclusive, participatory and transparent national reconciliation process; and (c) to facilitate the implementation of the recommendations made to the Government to address the socio-economic and humanitarian factors underlying the crisis. Responsibility for the future of Myanmar rested with the Government and people of Myanmar, and the world was watching closely to see how that responsibility would be exercised in the interest of all the people. The Secretary-General would spare no effort to achieve peace and prosperity in Myanmar, and the United Nations counted on the continued support of the international community for efforts towards national reconciliation, the transition to democracy and full respect for human rights. A renewed mandate from the General Assembly for the Secretary-General's good offices would enhance the initiative under way; the more united the international community, the better the prospects for arriving at the shared goals of peace, democracy and prosperity for Myanmar.

3. **Mr. Swe** (Myanmar) expressed surprise that the Under-Secretary-General for Political Affairs should introduce to the Committee a report that deliberately pointed a finger at Myanmar regarding its human rights

situation. The Committee's deliberations must be pragmatic and constructive, since cooperation, not politicization, was the best means of promoting and protecting human rights. He welcomed the firm recognition that responsibility for the future of Myanmar rested with its Government and its people. The authorities had proceeded with the seven-step road map to democracy. The curfew had been totally lifted; some 2,700 demonstrators detained briefly during the demonstrations had been released; a minister had been appointed to liaise with Daw Aung Sun Suu Kyi, whom he had met on 25 October; a 54-member committee had been appointed to draw up a new Constitution; and the Government had agreed to the visit of the two United Nations emissaries. He drew attention to his country's cooperation with the International Labour Office on the establishment of a mechanism to address forced labour, to its fight against narcotic drugs and to his Government's greater openness to United Nations actors, all of which had been acknowledged in the report of the Secretary-General. In response to remarks made earlier, he conceded that the events in Myanmar had been tragic; but what had started out as a small demonstration over the rise in fuel prices had been taken over by activists and rabble-rousers. The security forces had not intervened for a whole month, and then only when peace and security had been threatened. The international community could best assist Myanmar by giving it encouragement and recognizing its efforts.

4. **Mr. Martins** (Portugal), speaking on behalf of the European Union, said that it would be submitting a draft resolution on Myanmar and would like to know what stage had been reached in the dialogue process, what the results had been thus far, what was the main purpose of the Special Envoy's next mission and how the Special Rapporteur, entrusted with the task of assessing the human rights situation in Myanmar, and the Special Envoy, performing a good offices mandate, coordinated their work.

5. **Mr. Faati** (Gambia) said he had thought that the Under-Secretary-General was going to introduce a report on democratization, not a report focusing on Myanmar. He would like to know what the Office of the Under-Secretary-General for Political Affairs was doing, in terms of good offices, to promote democracy in other parts of the world.

6. **Mr. Ashiki** (Japan) said that his country supported the good offices efforts of the Secretary-General and his Special Envoy and regretted that the Government of Myanmar had chosen to use force against peaceful demonstrators, leading to casualties that included the death of a Japanese citizen. However, he noted with pleasure that Mr. Gambari and Mr. Pinheiro had been invited to travel to Myanmar in November. Mr. Gambari's recent visit to Tokyo had been quite productive. He hoped that Myanmar would accept with sincerity the resolution adopted by consensus by the Human Rights Council during its fifth special session and the statement by the President of the Security Council issued on 11 October 2007 (S/PRST/2007/37). Japan was more committed than ever to cooperating with the United Nations and with Myanmar to improve the human rights situation and to facilitate democratization and national reconciliation. His delegation would like to know how the Secretariat assessed Myanmar's response thus far to the good offices efforts of the United Nations and what the future priorities for those efforts were.

7. **Mr. Rees** (United States of America) was pleased that, in the absence of the Special Envoy, the Under-Secretary-General for Political Affairs himself had introduced the report, particularly given the compelling nature of the subject.

8. **Mr. Khane** (Secretary of the Committee) recalled that the Under-Secretary-General for Political Affairs had introduced the report of the Secretary-General on democratization (A/62/293) on 21 October 2007 and delegations had had the opportunity at that time to engage in a question-and-answer session with the Under-Secretary-General. The purpose of the Under-Secretary-General's appearance at the current meeting was strictly to introduce the report on the human rights situation in Myanmar and engage in a question-and-answer session on it.

9. **Mr. Faati** (Gambia) pointed out that the *Journal* indicated only that the Under-Secretary-General would make an introductory statement. It did not specify that it would be about Myanmar. He was understandably surprised at the appearance of the Under-Secretary-General for Political Affairs before the Third Committee. His coming to introduce a report on Myanmar was beside the point. His delegation wished to have a reply from the Under-Secretary-General himself.

10 **Mr. Pascoe** (Under-Secretary-General for Political Affairs) explained that Mr. Gambari was currently in the Myanmar region. Out of respect for the

Committee, it had been decided to proceed with the introduction of the report, given the importance of the topic and the need to adhere to the Committee's programme of work. Responding to the questions raised by Committee members, he said that the process under way in Myanmar was still in the early stages and that the crackdown in the streets was still going on, whence the need for the Special Envoy to be present in the country in order to try to defuse the tensions and re-establish the dialogue between the leadership and Daw Aung San Suu Kyi. It was not clear how long he would be there or whom he would be talking to. His objectives were to find out what the situation was on the ground, to ensure that detained persons were being released and to engage with as many stakeholders as possible. With regard to the coordination between the Special Envoy and the Special Rapporteur, he said that each was working to carry out the mandate entrusted to him. The issue of democratization, and particularly the elections aspect of it, had been discussed at an earlier meeting, and his Office was always available if anyone had issues that they wished to discuss. Replying to the question from the representative of Japan, he said that the situation was encouraging in his view, given the positive steps taken by the authorities of Myanmar. It was to be hoped that there would be a real dialogue among the various parties that would lead to prosperity, democracy and respect for human rights in Myanmar.

11. **Mr. Faati** (Gambia) said that too much emphasis had been placed on the objectives of Mr. Gambari and not enough on those of the United Nations. He was not convinced by the answers of the Under-Secretary-General, who should conduct such briefings in the appropriate forums, not in the Third Committee.

12. **Mr. Swe** (Myanmar) said that he would have liked to see the Under-Secretary-General address all the items on the agenda rather than focus his remarks solely on Myanmar. He wished to point out several fallacies, notably the assertion that there was a continuing crackdown on the people in Myanmar. He emphasized that the situation had returned to normal, that the Government had lifted the curfew and that people were going about their daily lives. All possible pragmatic measures were being taken to put the country back on the road to democracy and development, which was the deepest wish of the people of Myanmar.

13. **Mr. Khane** (Secretary of the Committee) wished to clarify that the introduction of the report of the Secretary-General on the situation of human rights in Myanmar (A/62/498) had been announced at both the meetings held on Friday, 26 October 2007, and that the report had been prepared under the overall authority of the Department of Political Affairs, which explained why its introduction by the Under-Secretary-General for Political Affairs had been appropriate. In accordance with General Assembly resolution 58/316, the Secretary-General had the latitude to have his reports introduced in any of the Main Committees.

14. **Mr. Pascoe** (Under-Secretary-General for Political Affairs) underscored the importance of the issue.

Agenda item 62: Social development (*continued*)

(b) Social development, including questions relating to the world social situation and to youth, ageing, disabled persons and the family (*continued*)

Draft resolution A/C.3/62/L.7: Policies and programmes involving youth: youth in the global economy

15. **Ms. Sow** (Senegal), introducing draft resolution A/C.3/62/L.7 on behalf of the sponsors, noted that more than 2 million youth in the world lived on less than one dollar a day, and the vast majority of them lived in developing countries. Close to 50 per cent of new HIV/AIDS infections occurred among youth. The youth of today would be the adults of tomorrow, and they deserved more attention and more consideration as they were increasingly vulnerable, did not receive a quality education and suffered discrimination and violence. The elimination of poverty required effective and lasting solutions to the many problems of youth, who should be involved in all decisions. The sponsors of the draft resolution, convinced that it was essential to take action to improve the living conditions of all youth, hoped that the resolution would be adopted by consensus, as in the past. She noted that the following countries had become sponsors: Albania, Austria, Belgium, Bulgaria, Côte d'Ivoire, Cyprus, Czech Republic, Democratic Republic of the Congo, Estonia, Guatemala, Hungary, Ireland, Italy, Jordan, Lithuania, Luxembourg, Mali, Netherlands, Niger, Portugal, Romania, Sierra Leone, the former Yugoslav Republic of Macedonia and Turkey.

16. **Mr. Khane** (Secretary of the Committee) announced that the following countries had become

sponsors of the draft resolution: Angola, Benin, Botswana, Cameroon, Cape Verde, Congo, Eritrea, Georgia, Guinea, Iraq, Italy, Lesotho, Malawi, Norway, Panama, Peru, Poland, San Marino, Slovakia, Swaziland, Uganda and United Republic of Tanzania.

17. **Mr. Jokinen** (Finland) said that Finland wished to become a sponsor of draft resolution A/C.3/62/L.9, which had been adopted at the Committee's 25th meeting on 25 October 2007.

Agenda item 63: Advancement of women (*continued*)

(a) Advancement of women (*continued*) (A/C.3/63/L.19)

Draft resolution A/C.3/62/L.19: Improvement of the situation of women in rural areas

18. **Mr. Sodnom** (Mongolia) introduced draft resolution A/C.3/62/L.19 and announced that China, Ghana, Guatemala, Mexico, Panama and the former Yugoslav Republic of Macedonia had joined the sponsors. Major conferences and summit meetings organized by the United Nations regarded the empowerment of women as an effective way to combat poverty, hunger and disease. Globalization presented persons living in rural areas with challenges. General Assembly resolution 60/138 had invited all Member States to encourage the remunerative non-agricultural employment of rural women, to improve their working conditions and to ensure their increased access to productive resources. A combination of traditional skills, such as handicrafts, and new skills, together with the development of new sectors of activities, such as tourism, widened rural women's access to employment opportunities and helped to alleviate poverty. It was also necessary to facilitate rural women's access to information and communication technologies in order to enable them to play a more active role in socio-economic development and to bridge the digital divide. Rural women made up more than a quarter of the world population but, although they produced more than half of the world's food, owned only 2 per cent of its land. In order to emphasize the part played by rural women in the world economy, a number of bodies had proposed that World Rural Women's Day should be celebrated every year on 15 October. He hoped that the draft resolution would be adopted by consensus.

19. **Mr. Khane** (Secretary of the Committee) announced that Argentina, Benin, Cameroon, Congo, the Dominican Republic, Ethiopia, Guinea, Haiti, Honduras, Jamaica, Kenya, Lesotho, Malawi, Nicaragua, Nigeria, Paraguay, Senegal, Sierra Leone, Sri Lanka and Uganda had joined the sponsors.

Agenda item 66: Promotion and protection of the rights of children (*continued*)

(a) Promotion and protection of the rights of children (*continued*) (A/C.3/62/L.23)

Draft resolution A/C.3/62/L.23): The girl child

20. **Ms. Kondolo** (Zambia), introducing draft resolution A/C.3/62/L.23 on behalf of the 14 members of the South African Development Community, said that it was a biennial draft resolution and that Cameroon, Chile, Côte d'Ivoire, Cuba, Ghana, Panama, Senegal, Switzerland and Uzbekistan had become sponsors. The text had been updated, streamlined and strengthened to take account of new developments. It addressed most of the issues affecting the girl child, and it highlighted the needs of the girl child in the areas of education, health and development. The draft text also stressed the need to protect the girl child against all forms of exploitation, abuse, discrimination and violence. It sought to heighten the international community's awareness of the girl child's vulnerability and called upon it to improve the situation of girl children living in poverty and to promote their rights. There were ongoing negotiations on the text, which, she hoped, would be adopted by consensus.

21. **Mr. Khane** (Secretary of the Committee) announced that Andorra, Argentina, Benin, Brazil, Cape Verde, Congo, Costa Rica, the Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Kenya, Mali, Mexico, Namibia, Nicaragua, Nigeria and Paraguay had joined the sponsors.

Agenda item 70: Promotion and protection of human rights (*continued*)

(a) Implementation of human rights instruments (*continued*) (A/C.3/62/L.25-L.27)

Draft resolution A/C.3/62/L.25: International Covenants on Human Rights

22. **Ms. Schlyter** (Sweden) introduced draft resolution A/C.3/62/L.25 on behalf of the Nordic countries and the sponsors. Having referred to the contents of the second and third preambular paragraphs of the text, she explained that the draft resolution was

biennial, the previous resolution on the subject having been adopted in 2005. Since then, the fortieth anniversary of the adoption of the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights had been celebrated. The number of States parties to the two Covenants was steadily growing; since 2005, six States had acceded to each of the Covenants, bringing the number of States parties to the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights to 157 and 160 respectively. During the same period, one State had ratified the Optional Protocol to the International Covenant on Civil and Political Rights and two States had ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty. The draft text was very similar to that of the 2005 resolution. Its main focus was on stressing how important it was that States should accede to the Covenants and the two Optional Protocols and apply their provisions. The text had been streamlined, and a few paragraphs which were no longer relevant had been deleted. Paragraphs 8, 9 and 21 had been updated. The treaty-monitoring bodies' endeavours to improve the efficiency of their working methods and to ensure that States fulfilled their reporting obligations on time were mentioned in paragraph 10. Fifty-two States were already sponsoring the draft resolution, which, she hoped, would receive the support of yet other delegations and would be adopted by consensus.

23. **Mr. Khane** (Secretary of the Committee) announced that Angola, Benin, Cape Verde, the Dominican Republic, Greece, Lithuania, Montenegro, Nicaragua and Ukraine had joined the sponsors.

Draft resolution A/C.3/62/L.26: Torture and other cruel, inhuman or degrading treatment or punishment

24. **Ms. Wandel** (Denmark) introduced draft resolution A/C.3/62/L.26 on behalf of the sponsors, which had been joined by Albania, Greece, Italy, Panama, Paraguay, San Marino, Slovakia and Slovenia. The final version would be circulated as soon as the current negotiations were completed. After drawing attention to the contents of the second preambular paragraph and paragraph 1 of the text, she said that it addressed a number of fundamental issues of crucial importance for the prevention and elimination of all acts of torture and other cruel, inhuman or degrading treatment or punishment, and it emphasized States' obligations under international law, especially the principle of non-refoulement. It highlighted the work done by the Committee against Torture and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, and it commended non-governmental organizations on their persistent efforts in combating torture. The draft resolution also mentioned the entry into force of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the establishment of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the adoption in December 2006 of the International Convention for the Protection of All Persons from Enforced Disappearance. She thanked delegations for their constructive cooperation in drawing up the draft text, and she drew attention to the fact that, although the Member States of the Organization were united in their firm condemnation of torture and other cruel, inhuman or degrading treatment or punishment, their commitment was not always translated into positive improvements on the ground. There were regular reports of violations committed in secret which left the victims with little hope of obtaining protection or redress. She hoped that the draft resolution, which constituted a further tool in the global fight against such practices, would be supported by many delegations.

25. **Mr. Khane** (Secretary of the Committee) announced that Armenia, Benin, Cape Verde, the Dominican Republic, Ecuador, Georgia, Lithuania, Moldova, Nicaragua and Ukraine had joined the sponsors.

Amendment (A/C.3/62/L.27) to draft resolution A/C.3/62/L.26: Torture and other cruel, inhuman or degrading treatment or punishment

26. **Ms. Kolontai** (Belarus) introduced an amendment to draft resolution A/C.3/62/L.26 that was aimed at drawing attention to the potential danger of trying to define torture in more restrictive terms than those used in the opening article of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. She urged Member States to support the amendment.

(f) Celebration of the sixtieth anniversary of the Universal Declaration of Human Rights (*continued*) (A/C.3/62/L.28)

Draft resolution A/C.3/62/L.28: International Year of Human Rights Learning

27. **Mr. Babadoudou** (Benin) introduced draft resolution A/C.3/62/L.28 on behalf of the Group of African States and Argentina. He explained that the draft resolution was a procedural one, as the sponsors considered that the sixtieth anniversary of the Universal Declaration of Human Rights should serve as an occasion for the international community to expedite measures to promote the effective realization of all human rights. In order for everyone to be aware of all their rights, the year commencing on 10 December 2008 would be proclaimed the International Year of Human Rights Learning. The text also stipulated that a meeting should be held at the sixty-fourth session of the General Assembly to review activities of Member States in the context of the International Year. He hoped that the draft resolution would receive the support of all delegations.

28. **Mr. Khane** (Secretary of the Committee) asked for confirmation of the date mentioned in paragraph 1 of the draft resolution.

29. **Mr. Babadoudou** (Benin) confirmed that there was a technical error in the text and that the date should read "10 December 2008". A correction would be sent to the Committee secretariat.

Agenda item 70: Promotion and protection of human rights (*continued*)

(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (*continued*) (A/62/183, A/62/207, A/62/212, A/62/214, A/62/218, A/62/222, A/62/225, A/62/227, A/62/254, A/62/255, A/62/265, A/62/280, A/62/286-289, A/62/293, A/62/298, A/62/304 and A/62//317; A/C.3/62/3)

(c) Human rights situations and reports of special rapporteurs and representatives (*continued*) (A/62/213, A/62/223, A/62/263, A/62/264, A/62/275, A/62/313, A/62/318, A/62/354 and A/62/498; A/C.3/62/41)

(e) Convention on the Rights of Persons with Disabilities (*continued*) (A/62/230)

30. **Ms. Samar** (Special Rapporteur on the situation of human rights in the Sudan) introduced her report (A/62/354), specifying the dates of her visit and the places she had visited and thanking the parties concerned for their cooperation. The protection of human rights in the Sudan continued to be an enormous challenge, and many of the concerns highlighted in the previous year's report remained the same. Despite some progress on the political front, human rights violations continued throughout the country. She drew attention to the conclusions set forth in paragraphs 81 to 86 of the report and reiterated the recommendations in paragraph 87. In conclusion, she said that it was the responsibility of all Member States to help the people of the Sudan to achieve sustainable peace. Peace would not be sustainable without accountability, justice and respect for human rights.

31. **Mr. Mohamad** (Sudan), after thanking the Special Rapporteur on the situation of human rights in the Sudan, reiterated that his Government had cooperated throughout the four visits she had paid to the Sudan since the beginning of her mandate, the last visit having been in July 2007. His Government was eager to honour its responsibilities and commitments and, as noted in the report, complied with the human rights instruments to which it had acceded. That approach was in keeping with a culture, civilization and religious heritage that put the dignity of mankind and human rights in first place.

32. His delegation wished to make some observations on the report of the Special Rapporteur. To begin with, the Sudan had undertaken to harmonize the provisions of the human rights instruments with its domestic legislation and had implemented policies and plans to translate them into reality. A dialogue was under way among the competent parties to expedite the Sudan's ratification of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Convention on the Elimination of All Forms of Discrimination against Women.

33. As to the national framework and national institutions and reform, the Sudan had begun to harmonize its legislation and its Constitution with international human rights norms. Thus, the Ministry of Justice had initiated the necessary coordination for the adoption in 2007 of a law on political parties,

providing for the freedom to constitute parties, and the adoption in 2007 of a law on the civil service, guaranteeing women's right to employment and equal pay, as well as maternity leave. Other draft legislation was being studied, including a law on the human rights commission and an electoral law, concerning which consultations were being held with all political parties and movements.

34. An entire chapter of the draft law on the armed forces, which had been approved by the Cabinet and submitted to Parliament, dealt with the principles of international humanitarian law, including the protection of civilians. The draft text provided for individuals to be held criminally liable in cases of violations and for perpetrators to be tried before a court of law. A draft law on the police had also been approved by the Cabinet, and another draft law, on the security forces, would soon be approved; both texts should be enacted in the near future. The National Constitutional Review Commission expected to hold broad consultations on the new electoral law with women's representatives in all sectors and would like to earmark 25 per cent of constituencies for women. The 2007 law on political parties allowed political parties to conduct activities, even if they were not officially registered. It exempted historical parties from registration, although not new parties. The draft law on the human rights commission had been prepared in conformity with the Paris Principles and stipulated that the commission should have an independent budget. The draft would be the subject of broad consultations and would soon be submitted to Parliament.

35. The criminal law banned torturing the accused or meting out severe treatment to obtain confessions by force. In July 2007, the Director General of the Police had issued orders on the treatment of detainees or prisoners, prohibiting detentions except in prisons and providing for notification of families. Emphasis had been placed on the need to lift the immunity of members of the police when the allegations against them were justified and required them to be brought to trial.

36. Since signing the Comprehensive Peace Agreement on 9 January 2007, the Sudan had made progress towards building peace, achieving development, expanding political participation and respecting fundamental rights and liberties, as well as the distribution of power and wealth. The Sudan had the necessary political will to implement the Comprehensive Peace Agreement and to fulfil all obligations emanating therefrom.

37. The Eastern Sudan Peace Agreement, which reflected the wishes of the population, was being implemented in accordance with the provisions set forth in the text, under the supervision of the Supreme Council headed by the Vice-President and with the participation of members of the Government. As far as security arrangements were concerned, the Government was taking steps to absorb the Eastern Front forces into the army, police and security forces. The Eastern Reconstruction Fund had earmarked US$ 600 million for development projects in the three eastern provinces. The Government of the Sudan was surprised at the Special Rapporteur's unwarranted criticism and questioning of the Eastern Sudan Peace Agreement, which enjoyed international and regional support and had made it possible to restore security, stability and peace to the entire region.

38. In the case of the populations in the vicinity of the Merowe and Kajbar dam projects, which were both of strategic importance, the Special Rapporteur had referred to the suffering caused by their evacuation, but she had not visited the Merowe area to establish that finding or the new sites to which the population had moved. Her report was therefore unrealistic and contained inaccurate information that did not serve the cause of human rights. The economic, environmental and social aspects of the nearly completed Merowe dam project had been studied by experts of world renown. International and national agencies had helped determine the amount of compensation to be granted, in consultation with the local people, who had received the payments in kind and in cash and had moved voluntarily to the new site. The Government had not brought any pressure to bear on the limited few who had wanted to stay. The Merowe dam project had made a great difference in the life of the inhabitants, who now had housing, health and educational services and access to water, as well as much more agricultural land. The advantages also extended to the northern provinces, which were able to irrigate their land and be connected to the electric grid.

39. The information in the report concerning the Kajbar dam project was inaccurate, as the project was still being studied. For political reasons, some residents had made illegal attempts to stand in its way, which had driven the police to intervene. The local inhabitants themselves were behind the Kajbar dam

project. However, the company which they had established in the early 1990s had not secured the necessary funding, prompting the Government to intervene in the light of the future social and economic advantages. The Merowe and Kajbar dams benefited the residents of the region by providing them with decent housing, health care, education and food.

40. His Government was cooperating closely with the Group of Experts on Darfur responsible for monitoring the implementation of earlier resolutions on the human rights situation in Darfur, which would be submitting its final report in December 2007. The Government was updating it on its activities and had the necessary political will to implement all the recommendations by that date.

41. In the area of justice and equality, there was a need to complete the investigation into the incidents which had occurred in Bulbul, Gereida, Deribat and Buram and to prosecute the perpetrators of serious human rights violations, especially persons who had committed acts of violence against women.

42. Resolved to facilitate humanitarian work in the three administrative units of Darfur, on 28 March 2007 the Government and the United Nations on Facilitation of Humanitarian Activities in Darfur had signed a Joint Communiqué to protect relief operations from attacks by armed rebel groups. The Government was endeavouring to protect civilians and ensure justice and stability, thereby enabling 272,696 internally displaced persons to return voluntarily to their villages of origin.

43. The statement in the Special Rapporteur's interim report that justice was not completely out of reach in Darfur and that State agents had been tried and prosecuted for human rights abuses demonstrated the Sudanese justice system's independence and integrity. With regard to the lack of cooperation with the International Criminal Court, the Government's position was clear and would not change: the Court had no jurisdiction over the Sudan given that the Government had not ratified the Rome Statute. The national judicial system was empowered to prosecute offenders.

44. Recently, an affiliate of the French organization l'Arche de Zoé, which had been working under the name "Children Rescue", had attempted to smuggle more than 100 children from Darfur through Chad to Western countries on the pretext that they were orphans and should be adopted. The organization practised human trafficking, which constituted a blatant violation of international law, human rights, the Convention on the Rights of the Child and the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption. His delegation condemned those schemes, called on the international community to do likewise and hoped that the French Government would take the appropriate measures. The Sudanese Government expressed its appreciation to Chad for its assistance in thwarting the human trafficking attempt and arresting the persons responsible.

45. The Special Rapporteur had made sweeping generalizations about the situation. She had been misled and was trying to extend her mandate by referring to the situation in eastern Sudan. His delegation therefore believed that it was necessary to terminate her mandate to avoid any disruption of the work being done by the Group of Experts over which she was presiding, which was receiving the full cooperation of the Sudanese Government. The Sudan was committed to continuing its cooperation with the relevant human rights machinery and expected similar cooperation in return. It hoped that the appropriate bodies would fulfil their obligations objectively and impartially and achieve the goals set forth in the peace agreements.

46. **Mr. Queiros** (Portugal), speaking on behalf of the European Union, said that the European Union continued to follow closely the situation in Darfur, where gross and systematic human rights violations persisted. It was looking forward to the deployment of the African Union-United Nations Hybrid Operation in Darfur on the ground, where hostilities had intensified in recent weeks. Human rights violations occurring elsewhere in the Sudan, including repression of demonstrations, arbitrary detentions, torture and curtailment of freedom of the press, could not be ignored. He would like to know whether the Special Rapporteur had made any assessments of the implementation of the recommendations put forward to the Sudanese Government concerning those violations. He would appreciate clarification on any measures to end the ongoing violation of the rights of women, who continued to be raped, and the culture of impunity, which were matters of concern. The European Union was particularly disturbed by the appointment of an individual who had been indicted by the International Criminal Court for war crimes to preside over a national human rights committee. Concerning Darfur,

where gross and systematic human rights violations persisted, he asked the Special Rapporteur whether she had any updated information on the status of implementation by the Sudanese Government of the recommendations identified by the Group of Experts.

47. **Mr. Rees** (United States of America) said that he shared the Special Rapporteur's concerns and was pleased to see reporting on the situation in eastern Sudan, an area on which there was limited information. The report would have benefited from more details on the implementation of the Joint Communiqué between the Government of Sudan and the United Nations on Facilitation of Humanitarian Activities in Darfur. The Sudan continued to impede humanitarian operations in Darfur. He therefore asked the Special Rapporteur for her views on how the Sudanese Government and the United Nations could better implement the Communiqué. He would also like more detail on the status of implementation of the Comprehensive Peace Agreement. The United States Government was deeply concerned about the escalating violence and continued attacks on the civilian population, which had resulted in massive displacement, hindered the delivery of humanitarian services to Darfur and threatened the peace process. It supported the Security Council's willingness to take robust action against any party which undermined the Joint Communiqué and reiterated its commitment to working with the Special Rapporteur and the international community to resolve the crisis.

48. **Mr. Ke** Yousheng (China) commended the constructive efforts made by the Sudanese Government to work closely with the Group of Experts and implement its recommendations. Noting the recent progress made in the peace negotiations on Darfur, his Government hoped that they would produce positive results. At the second international meeting on the situation in Darfur, held in Tripoli, where all parties to the conflict were called on to reach a peace agreement, progress had also been made on the joint African Union/United Nations road map. China welcomed the adoption of Security Council resolution 1769 (2007), which had authorized the African Union-United Nations Hybrid Operation in Darfur. The international community should seize that opportunity and support the efforts made within that framework by the African Union, the United Nations and the Sudanese Government to resolve the crisis in Darfur. Concerning stability, security, political progress, humanitarian assistance and social and economic development, the Sudan must be helped to find a sustainable, gradual and comprehensive solution to improve the living conditions of the local communities and eliminate the causes of the conflict.

49. **Mr. Sergiwa** (Libyan Arab Jamahiriya) said that the report had shown that some progress had been achieved during the reporting period. The Sudan had ratified a number of international human rights instruments and cooperated with the Special Rapporteur. Recently, the Sudanese Government had adopted a positive attitude, including through its participation in the international meeting currently taking place in the Libyan Arab Jamahiriya and unilateral ceasefire declaration. He hoped that the Special Rapporteur would continue to cooperate with the Government of National Unity to improve the situation throughout the country and ensure that humanitarian assistance reached Darfur and other areas.

50. **Ms. Paquet** (Canada) said that the conclusions of the report justified the extension of the Special Rapporteur's mandate. She wondered what role international partners should play given the deteriorating situation in the Sudan. Noting with particular concern the present culture of impunity in the country, she would like to know what steps could be taken by the international community to encourage the Sudanese Government to cooperate with the International Criminal Court.

51. **Ms. Halabi** (Syrian Arab Republic) welcomed the tangible progress achieved through tireless and commendable effort in the Sudan in the very short period of time since the signing of the Comprehensive Peace Agreement and the establishment of the Government of National Unity. Rather than hurling criticisms and accusations of human rights violations, pressure should be exerted on the rebel groups to encourage them to go to Libya and continue peace negotiations. The cases of arrest and detention mentioned by the Special Rapporteur were linked to a concern to parry any threat to national sovereignty; the media tended to exaggerate the facts and did not faithfully report the realities on the ground. In any case, a mechanism should be established that would enable the Sudanese Government to be given the assistance it needed to overcome its economic and social difficulties.

52. **Ms. Pérez Álvarez** (Cuba) welcomed the Sudanese Government's efforts to establish peace and security, as reflected in the positive results already achieved. Her Government looked forward to the outcome of the current negotiations and of the action of the hybrid force recently set up. The Cuban delegation wished to know what role could be played by the international community and the United Nations system in helping to settle the economic and social difficulties and ensuring the general well-being of the Sudanese population in order to promote the right to development and eliminate poverty.

53. **Mr. Abdelaziz** (Egypt) said that dealings with all the parties mentioned in the report should be far more balanced. The commitments required from the Government of National Unity, the leaders of the Eastern Front, the Government of Southern Sudan and the international community were not the same; they should be reviewed and standardized. The only element welcomed by the Special Rapporteur seemed to be Security Council resolution 1769 (2007), adopted following the failure of efforts to implement the previous resolution, which had been hampered by the Sudanese Government's lack of agreement to the deployment of a force. That failure was to be laid at the door not of the Sudanese Government but of those who had wanted to have the draft resolution adopted in the Council without obtaining the Government's agreement. The peace treaty should be widened to include all the rebel factions. It was already clear from the meeting held in Tripoli on 28 October that some factions did not want peace, and his delegation welcomed the statement by the President of the Security Council on 24 October (S/PRST/2007/41), raising the possibility of sanctions against those factions in the event of their failing to support a peace treaty. Without such a treaty and without the support of the opposing forces, the situation could only grow worse. Because of that situation, economic, social and cultural rights were advancing at an extremely slow pace, as was noted in paragraph 86 of the report. The Sudanese Government needed considerable assistance to achieve its goals, otherwise the situation would become more complicated.

54. **Ms. Samar** (Special Rapporteur on the situation of human rights in the Sudan) again thanked the Sudanese Government for its cooperation. She was attached to her mandate as Special Rapporteur not out of personal interest but for the sake of the Sudan. The question of human rights raised by the European Union was not confined to the Sudan but was also a concern in most of the developing countries, which did not see it as a top priority. The National Congress Party and the Sudan People's Liberation Movement were constantly being urged to respect the Comprehensive Peace Agreement and the national Constitution as well as the Southern Sudan Constitution. To that end, the international community must give substantial support to the Government of National Unity and to the Government of Southern Sudan so as to help them overcome the difficulties before them. The Sudanese Government had been requested to provide the Group of Experts with information no later than 26 October 2007, in order to enable it to draw up its report, but had announced that it would submit a report on 9 November. Although encouraging steps had been taken by the Sudanese Government, the situation on the ground had hardly changed. With regard to the Joint Communiqué from the Sudanese Government and the United Nations on the Facilitation of Humanitarian Activities in Darfur, referred to by the United States delegation, there had been some progress in the issuing of visas and in respect of customs procedures; however, travel by humanitarian agency personnel was still restricted. She pointed out that the question of the Comprehensive Peace Agreement was addressed in her report and stressed the importance of law reform in the Sudan for improving the human rights situation. She agreed with the representative of China that the engagement of the international community would be helpful in that regard, as for any country torn by conflict, and assured the representative of Canada that the human rights situation in the Sudan was a cause for concern to each member of the international community, which was duty-bound to come to the help of all human beings, wherever they might be. She again called on all the parties to cease hostilities and lay down their arms, engage in dialogue and not sacrifice the Sudanese people to their personal or political ambitions. She joined the representative of Egypt in acknowledging that all the parties had violated human rights and noted that if the money used to finance the conflict was invested in the country's development, the peace process would gain.

55. **Mr. Mohamad** (Sudan), while appreciating the solidarity shown by Member States, reminded some, including the United States of America, the European Union countries and Canada, that they were ill-advised to hurl accusations at other countries. Nobody was

unaware that the Sudan cooperated with mechanisms for the defence of human rights, and all its efforts, in particular its participation in the meeting held in Lebanon and its adoption of the ceasefire declaration, attested to its desire to achieve stability and peace. The United States of America, the European Union and Canada, whose political motives were known, should condemn the lack of participation of some groups and should also speak out against the child trafficking in which a French non-governmental organization had engaged. The Government and people of the Sudan remained attached to the promotion of peace and human rights throughout the country.

56. **The Chairman** announced that the Chairperson-Rapporteur of the Working Group on the Right to Development having been unable, for reasons of health, to introduce his report in person, the Committee had authorized a representative of the Office of the High Commissioner for Human Rights to read out his statement.

57. **Mr. Mbaidjol** (Director of the New York Office of the Office of the High Commissioner for Human Rights), speaking on behalf of Mr. Sengupta, Chairperson-Rapporteur of the Working Group on the Right to Development, introduced the report on the action of the Working Group and the measures taken by the High-level Task Force and the Working Group in the previous year (A/62/183). In 2006, the Working Group had established a set of criteria for the periodic evaluation of global development partnerships from the perspective of the right to development and had recommended that those criteria should be applied on a pilot basis to three selected development partnerships, namely, the African Peer Review Mechanism, the Mutual Review of Development Effectiveness, set up in the context of the New Partnership for Africa's Development by the Economic Commission for Africa and the Development Assistance Committee of the Organization for Economic Cooperation and Development, and the Paris Declaration on Aid Effectiveness. At its eighth session, held from 26 February to 2 March 2007, the Working Group had recommended the addition of the Cotonou Partnership Agreement between the European Union and African, Caribbean and Pacific countries; it had also adopted a workplan for the implementation of its conclusions and recommendations in three phases. The Task Force had been requested, in phase I, in 2007, to study more deeply the initial three partnerships and to start assessing the Cotonou Partnership Agreement; in phase II, in 2008, to study additional partnerships and analyse thematic issues of international cooperation under Millennium Development Goal 8; and in phase III, in 2009, to consolidate its findings, revise the list of development criteria and make suggestions for further work. That very promising and pragmatic approach to development had been supported by the Human Rights Council which, at its fourth session, in April 2007, had decided that the criteria for the periodic evaluation of partnerships would be applied, by no later than 2009, to other components of Millennium Development Goal 8.

58. The Task Force had been supported by the Office of the High Commissioner in implementing the recommendations set out in the workplan. During phase I, it had been in constant dialogue with partnership secretariats and had begun studying the Cotonou Partnership Agreement. It had carried out three missions, the first to deepen dialogue with the Organization for Economic Cooperation and Development, the second to meet partners to the Cotonou Agreement, and the third to meet representatives of the Economic Commission for Africa. The Task Force would meet again in January 2008 to discuss phase II of the workplan and make recommendations to the Working Group.

59. The pragmatic approach adopted had given clear goals to action to advance the right to development and had strengthened the principle of responsibility. A large number of issues remained, which the evaluation criteria would cover, in particular that of the responsibilities of the various partners. It should be decided in that connection whether the right to development would be better served by binding instruments or by other means, such as voluntary codes of conduct. He noted, lastly, that the right to development called not for a debate on principles or logic but for the design and implementation of policies through a process of consensus.

60. **Ms. Pérez Álvarez** (Cuba) reaffirmed her Government's desire to contribute to the mainstreaming of the right to development within the United Nations system. It was essential that the Office of the High Commissioner for Human Rights should continue its activities in accordance with the criteria set by the Human Rights Council and those previously formulated in the decisions of the Commission on Human Rights. Cuba subscribed to all the criteria

established by the Working Group for the periodic evaluation of global development partnerships and welcomed the establishment of additional partnerships under Millennium Development Goal 8. As current Chair of the Non-Aligned Movement, Cuba would submit a draft resolution on the right to development; negotiations thereon were expected to continue through the week.

61. **Ms. Sutikno** (Indonesia) wished to know how the Office of the High Commissioner for Human Rights, particularly the Working Group on the Right to Development, could contribute to more rapid enjoyment of that right.

62. **The Chairman** suggested that, in view of the lateness of the hour, a written reply should be communicated to Indonesia.

Statements made in exercise of the right of reply

63. **Mr. Al-Shami** (Yemen) expressed surprise that the representative of Portugal, in his earlier statement on behalf of the European Union (see A/C.3/62/SR.22), had raised the question of the rights of human rights defenders in Yemen. Not only were the allegations unfounded, but in countries of the European Union many human rights violations were committed against religious minorities, particularly Muslims, and other minorities from developing countries. Since the reunification of Yemen in 1990, there had been major changes, which made it possible to ensure the promotion and protection of human rights. While the question of Yemen was no longer on the Committee's agenda, his country was always willing to receive Special Rapporteurs and human rights organizations, which could in particular examine the prison situation in the country on a fully transparent basis. Freedom of expression and of thought was a cornerstone of the political regime. There was not a single political prisoner in the country, and only persons who had committed criminal offences were still held in prison. His delegation therefore regretted the thrust of Portugal's statement and called on representatives to see to it that the information they presented was true.

64. **Mr. Chernenko** (Russian Federation) said that his country had also been a target of unfounded allegations by the representative of Portugal. A number of Western countries, including members of the European Union, had not been mentioned although very serious human rights violations continued to be committed in them. The representative of Portugal could have referred to the cruel measures taken in the name of the fight against terrorism, or the existence of secret prisons in several countries of the European Union. Discrimination against migrants, trafficking in human beings and the violation of the rights of ethnic minorities were just some of the violations committed in those countries, not to mention the resurgence of Nazism, xenophobia, racism or the insulting of religions. The approach taken by the European Union, which should concern itself first and foremost with the situation in its member States, undermined any trust in the universality of democratic values and standards established for all countries.

65. **Mr. Desta** (Eritrea) recalled that his country was a party to most international human rights conventions and that their provisions had been incorporated into its national legislation, including a recent prohibition of the practice of female genital mutilation. Emerging from a war, and itself a victim of flagrant violations for decades, Eritrea knew the importance of respect for fundamental freedoms and human rights. His Government sought to ensure full compliance with the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights in particular, and all Eritreans enjoyed religious freedom. Small extremist groups financed by secret foreign funds, which had been proliferating in the past seven or eight years, invoked their religious convictions as a reason for refusing to comply with the national service obligation. However, a national law made national service compulsory for all citizens without discrimination and allowed no exception on religious grounds.

66. **Mr. Fieschi** (France) said he wished to fill in delegates on the position of the French Government in the Arche de Zoé case. Upon being informed, the Ministry of Foreign and European Affairs, through its spokesperson, had denounced the way in which the operation had been organized. The President of the French Republic, who had since talked with his Chadian counterpart, President Idriss Deby, had on that occasion condemned the operation, which he had called "illegal and unacceptable". The Minister for Foreign and European Affairs, Mr. Kouchner, had immediately mobilized the French Embassy in N'Djamena and had decided to set up a crisis unit within the Ministry. Representatives of the United Nations Children's Fund, the Office of the High

Commissioner for Refugees and the International Committee of the Red Cross had been contacted on the spot in Chad to check on the welfare and health of the children, and a team from the Ministry, including a doctor, had been dispatched to the country. As for the French citizens responsible for the operation, who had been arrested in Chad, the French Ambassador to Chad, Mr. Bruno Foucher, had stated that they would be held accountable in Chad for their acts. The Paris Prosecutor's Office, for its part, had decided to open an investigation in order to ascertain whether there was any need for further legal action within French territory.

The meeting rose at 6.15 p.m.

United Nations A/C.3/62/SR.30

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Summary record of the 30th meeting
Held at Headquarters, New York, on Tuesday, 30 October 2007, at 10 a.m.

Chairman: Mr. Ashiki (Vice-Chairman) ..... (Japan)

Contents

Agenda item 70: Promotion and protection of human rights (*continued*)

(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (*continued*)

(c) Human rights situations and reports of special rapporteurs and representatives (*continued*)

(e) Convention on the Rights of Persons with Disabilities (*continued*)

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07-57005 (E)

In the absence of Mr. Wolfe (Jamaica), Mr Ashiki (Japan), Vice-Chairman, took the Chair.

The meeting was called to order at 10.15 a.m.

Agenda item 70: Promotion and protection of human rights (*continued*) (A/62/36, 369 and 464)

(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (*continued*) (A/62/183, 207, 212, 214, 218, 222, 225, 227, 254, 255, 265, 280, 286-289, 293, 298, 304 and 317; A/C.3/62/3)

(c) Human rights situations and reports of special rapporteurs and representatives (*continued*) (A/62/213, 223, 263, 264, 275, 313, 318, 354 and 498; A/C.3/62/4)

(e) Convention on the Rights of Persons with Disabilities (*continued*) (A/62/230)

1. **Ms. Nassau** (Australia), speaking also on behalf of Canada and New Zealand, said that those three countries considered that protecting and promoting human rights was a key priority for the United Nations, one which was too important a matter for symbolic gestures alone. Only through concrete efforts and ongoing support for reform could real commitment be shown. They remained firmly committed to improving the efficiency and effectiveness of the international treaty body system, which, if it worked constructively with States and was viewed as credible and independent, could have a direct impact on human rights protection.

2. They commended the innovate practices that treaty bodies had put in place, such as the use of parallel chambers to clear a backlog of reports for consideration and distribution of lists of issues to States parties as early as possible in the reporting process. Australia, Canada and New Zealand were reporting to treaty bodies in accordance with the harmonized guidelines for reporting, which should reduce duplication of information and provide a uniform framework within which each treaty body could work. The guidelines were a work in progress, and further enhancements might be required.

3. It was important for treaty bodies to give consistent guidance to States and to handle issues involving multiple forms of discrimination in an integrated way, thereby reinforcing the indivisible and interrelated nature of human rights standards. It was also important not to lose focus on the larger question of reform of the treaty body system as a whole, including the concept of a single, uniform treaty body.

4. For the treaty body system to have a sustained and systematic impact on promoting human rights, treaty bodies must complement the work of other international human rights mechanisms. The Human Rights Council's universal periodic review provided an excellent opportunity for interaction between different human rights mechanisms. Rather than duplication, she wished to see a complementary relationship that would reinforce the credibility of the universal periodic review and the authority of the treaty body system. Strengthening that system also required greater engagement with a broad network of actors, in particular between the treaty bodies and the human rights special procedures.

5. **Ms. Kurosaki** (Japan) said that promotion of human rights, democracy and the rule of law was an important aspect of Japan's diplomacy. Through its dialogue and cooperation approach, Japan had helped to include a human rights perspective in development projects in capacity-building for promotion of the rule of law, including training of judges, electoral assistance and media projects. It had also contributed $10 million to the United Nations Democracy Fund (UNDEF).

6. She wished to draw attention to the issue of discrimination against persons affected by leprosy and their families. The World Health Organization was leading the international effort to eradicate leprosy, and the disease had become curable with multi-drug therapy. Although the number of new patients was declining sharply, in many parts of the world there was still prejudice and discrimination against such persons and their families. Patients were often marginalized in society and torn away from their families. Until 1996, it had been the Government's policy to quarantine leprosy patients by forcibly committing them to sanatoriums, in the light of the infectious nature of the disease. Currently, however, it was working to eliminate prejudice and discrimination against leprosy patients and promote the rehabilitation of those who were forced to enter sanatoriums. The Sub-Commission on the Promotion and Protection of Human Rights had adopted a draft decision on the human rights of leprosy-affected persons which had

been recommended to the Human Rights Council for adoption.

7. Japan had signed the Convention on the Rights of Persons with Disabilities, and was making efforts to ratify it as soon as possible, taking into consideration the views of civil society.

8. **Mr. Liu** Zhenmin (China) said that, with Human Rights Council mechanisms about to begin operation, it was necessary to discuss expectations for the Council and the principles underlying its operation.

9. The Human Rights Council should correct the weakness of the former Commission on Human Rights. Although it had contributed in its own way to the cause of human rights, the Commission's practices of politicization, double standards and "naming and shaming" had damaged its reputation irreparably. Therefore, the Council should take care to avoid those old practices.

10. The Human Rights Council should make a commitment to dialogue and cooperation. Mutual respect and seeking common ground while maintaining diverse cultural traditions and learning from one another represented the best means for the joint promotion of human rights. The universal periodic review should become an effective cooperation mechanism based on operating principles of universal and equal treatment of all countries, applying objectivity, transparency, non-selectivity, non-confrontation, non-politicization and a constructive approach.

11. Both categories of human rights deserved equal attention. Civil and political rights had been given full emphasis, while economic, social and cultural rights and the right to development had been neglected. Against the backdrop of economic globalization, the realization of those rights and the implementation of the Millennium Development Goals were urgently needed, especially by least developed countries, for the full realization of all human rights.

12. The Office of the High Commissioner for Human Rights (OHCHR) played an important role in the promotion and protection of human rights, and should be supported and guided by the General Assembly, the Economic and Social Council and the Human Rights Council. His delegation expected the Office to observe strictly the principle of objectivity and neutrality and to heed the concerns of developing countries. It should pay increased attention to racism, economic, social and cultural rights and the right to development. His delegation also expected the Office to increase its own transparency and to give preferential treatment in recruitment to developing countries so as to correct the imbalance in the composition of its staff. For its part, his Government would continue to support OHCHR in its work and enhance their mutual cooperation.

13. **Mr. Abdelaziz** (Egypt) said that his country, a member of the Human Rights Council since 2007, hoped to contribute to a renewal of the international community's commitment to the promotion and protection of human rights, especially in the light of the selectivity, politicization and double standards which had long impaired the Commission on Human Rights. Unifying the standards for addressing human rights questions would provide a point of departure, in order to ensure integration between existing human rights mechanisms.

14. As the world's peoples strove towards greater democracy, political reform and reinforced respect for human rights, some actors increasingly attempted to impose their narrow viewpoints on how to apply those concepts. Rather than promote collaborative relations, complementarity and capacity-building, such imposition threatened the solidarity of international action and led to conflict. International efforts must be consolidated in order to tackle a number of issues. One such issue was the attempt by some actors to impose their own standards, rooted in their values, cultures and legal justice systems, as universal ones, all the while promoting their own political interests. Also, political and civil rights should no longer be promoted at the expense of economic, cultural and social rights. An objective approach based on equality and on complementarity between international human rights law and international humanitarian law must be adopted.

15. The Security Council should no longer be used as a tool to politicize human rights questions, and no more attempts should be made to supersede the mandates of the Third Committee and the Human Rights Council through excessively broad interpretations of the mandate of the High Commissioner for Human Rights. The appointment of human rights monitors in the offices of the United Nations development programmes, restricted to developing countries, ran counter to the principle of

equality in human rights monitoring in both developing and developed countries.

16. A basic premise of the 2005 World Summit Outcome that protecting human rights was the responsibility of Governments, was contradicted by allegations that the international community had a responsibility to protect peoples from their own Governments. Attempts to reinforce the so-called human security and security sector reforms aimed at interfering in internal affairs and at undermining the sovereignty and territorial integrity of States. International attention should focus on supporting Governments' ability to promote and protect human rights, though an approach based primarily on providing consultative, technical and financial support, at a Government's request. Equitable geographical distribution in the composition of staff, particularly in OHCHR, should be observed.

17. The international conviction that the right to development was fundamental and intrinsically linked to other rights should be reinforced. That required coordination between United Nations organs, agencies, funds and programmes, as well as the World Bank and other related international institutions. Such coordination was essential to narrowing the gap between North and South and to mitigating the negative aspects of globalization and immigration. No conditions that overburdened developing countries or imposed controversial concepts on them should be attached to development assistance programmes. All forms of extremism, discrimination, racism and religious defamation must be combated, and the international campaign against terrorism must include respect for human rights.

18. His Government was making efforts to promote and protect human rights, through enacting constitutional and legislative amendments and ensuring the continuous enhancement and respect of human rights on the ground, for all citizens. The greatest challenge facing the international community was to combat the feelings of injustice and oppression that resulted from the prevalence of political interests in the human rights discourse. Efforts should be redoubled to tackle chronic political and economic problems and to assist developing countries in realizing their peoples' legitimate aspirations to development and prosperity.

19. **Mr. Hossain** (Bangladesh) said that promotion and protection of human rights was the foundation of freedom, justice and peace in the world and fundamental to every undertaking of the United Nations.

20. A holistic approach should be taken to the question of human rights. To that end, Bangladesh was committed to ensuring all human rights — civil, political, economic, social and cultural, including the right to development — for all its citizens. Its Constitution embodied the principles of the Universal Declaration of Human Rights. As a current member of the Human Rights Council, Bangladesh remained engaged in constructive dialogue with the international community. It was strongly opposed, however, to the politicization of human rights issues. In the discharge of their important responsibilities, Special Rapporteurs and other mandate holders must maintain neutrality and objectivity. As a member of the Peacebuilding Commission, Bangladesh was committed to the principles of sustainable peace. It was also represented on the Committee on the Elimination of Discrimination against Women and the Committee on the Rights of the Child.

21. Bangladesh recognized that national human rights institutions were a key element of strong and effective national human rights protection systems, and thus was pleased to announce that its National Human Rights Commission would soon be established. Combating corruption and strengthening the rule of law went hand in hand with the protection of human rights. The renewal of the Anti-Corruption Commission, revision of the Police Act and progress made in the separation of the judiciary from the executive branch were among the measures taken in that regard. Bangladesh was a party to all major international human rights instruments and had enacted appropriate legislation to ensure the rights of women and children.

22. Bangladesh was an open society where freedom of speech and expression had been institutionalized. However, its endeavours to realize the goals of human rights were often threatened by dire poverty, which constituted a gross violation of human rights. The international community faced many and varying development challenges, and the ultimate responsibility for ensuring respect for human rights rested with national Governments. Those efforts, however, must be complemented by effective partnership with the international community.

23. **Monsignor Auza** (Observer for the Holy See) said that his delegation had noted with interest two substantive issues raised in the context of the activities of the Special Rapporteur on freedom of religion or belief: the particular situation of refugees, asylum-seekers and internally displaced persons and the issues relating to blasphemy laws, education and equality legislation.

24. His delegation shared the Special Rapporteur's concern at the vulnerable situation of refugees, asylum-seekers and internally displaced persons, as well as women and religious minorities. International refugee law clearly afforded refugees specific rights in their country of refuge in exercise of their freedom of religion or belief.

25. Blasphemy laws existing in some countries or regions had caused much suffering, either by the punishments inflicted or by the indirect consequences of destruction of places of worship and summary justice. In places where such laws were still in force, his delegation urged the public authorities to safeguard those accused of blasphemy and to grant full respect of their human rights. Religious minorities were entitled to enjoy the right to religious freedom, equal treatment before the law and the same civil rights as members of the majority religion.

26. His delegation was aware of the initiatives to foster debate on the delicate balance between freedom of speech and expression and respect for religion and religious symbols, but while honest search and dialogue continued, everyone must exercise responsibility and respect. To encourage peace and understanding between peoples, religions and their symbols must be respected and believers must not be subjected to provocations that vilified their religious convictions. Moreover, intolerance and violence as a response to offences could never be justified; it was incompatible with the authentic spirit of religion and respect for human dignity.

27. His delegation continued to be concerned that freedom of religion did not exist for many in different parts of the world. Forced conversions, executions, desecration of places of worship, expulsion of religious minorities from their communities and other forms of religious persecution mentioned in the Special Rapporteur's report were violations of the right to religious freedom as enshrined in the Universal Declaration of Human Rights and other international instruments.

28. Progress in the dialogue among world religions was a positive development. It had become an occasion to exhort one another to deeper faith, to peaceful coexistence and mutual enrichment, especially when dialogue was practised as both witnessing to one's faith and respecting the religious convictions of others. The Holy See hoped that interest in the issue on the part of civil society, and multilateral and national institutions would contribute to greater respect by all for religious freedom everywhere.

29. **Mr. Leghari** (Pakistan) said that, as the sixtieth anniversary of the Universal Declaration of Human Rights approached, it should be recalled that its central objectives were humanity, equality and equity. That aspiration could not be achieved, however, when almost one third of the world's people lived in abject poverty; their freedom to live in dignity could not be realized unless they were freed from its shackles.

30. Despite encouraging progress over the past six decades in promoting universal respect for human rights, significant challenges remained. Regrettably, within the United Nations, the promotion of human rights had often been used as an instrument of political pressure and interference in the domestic affairs of Member States. Many feared that it could even be used as a justification for military intervention.

31. In that context, his delegation wished to make some suggestions relating to both the substantive and structural aspects of human rights. Equal attention must be accorded to economic and social rights along with civil and political rights. The focus of promotion of human rights in developing countries should be on cooperation, technical assistance and human rights education to build capacity, rather than on political pressure and interference in their internal affairs.

32. The growing menace of xenophobia, Islamophobia and related intolerance must be addressed squarely, before those tendencies became uncontrollable. Cultural diversity must be respected, and each country must be allowed to attain the norms of the Declaration within its own socio-economic and cultural context. Double standards must also be avoided in addressing human rights situations. Country-specific consideration should focus mainly on situations of armed conflict or foreign occupation and the denial of the right of peoples to self-determination.

33. Poverty, deprivation and social exclusion led to extremism in many cases; therefore, poverty alleviation should become the central theme of the human rights machinery. The advocacy through United Nations mechanisms of the values of certain societies, merely because they were economically more advanced, was counterproductive. Many human rights advocates did not see the contradictions in their own positions, for example, opposing the death penalty yet defending the right to abortion or pressing for the rights of women and children while promoting social and moral norms that destroyed the family.

34. The establishment of the Human Rights Council in March 2006 had been a significant step in efforts to reform the United Nations human rights machinery. The Council had completed its first task, institution-building, and his delegation hoped it would build a mechanism that would extricate it from the bitter legacy of selectivity, politicization and double standards, and move it to a higher plane of dialogue, cooperation, education and awareness-raising.

35. **Ms. Jarbussynova** (Kazakhstan) said that her country had made significant achievements since joining the United Nations in 1992. The economy was stable and developing, and civil society institutions had been established and were actively participating in political and social life. Freedom of speech was guaranteed, censorship was prohibited, and independent mass media existed which were mostly privately owned. Members of several different ethnic groups and religions lived in harmony.

36. In 2007, Kazakhstan's Parliament had approved constitutional amendments that strengthened the legislative power; developed local governmental autonomy, transferred the sanction for arrest from the prosecutor's office to the court and significantly narrowed the scope of the death penalty. Also, for the first time in its history, the Government had held elections for the Majilis, the lower house of the Parliament, by a proportional system.

37. Her Government was a party to a number of human rights instruments, including the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Convention on the Rights of the Child and its two Optional Protocols. Kazakhstan was also about to ratify the Optional Protocols to the International Covenant on Civil and Political Rights and to the Convention against Torture, and had submitted periodic reports under the latter convention.

38. Her Government had recently issued a comprehensive report on national legislation and law enforcement practice with regard to compliance with international human rights standards. The recommendations of that report would be incorporated into a national plan of action on human rights, to be elaborated in accordance with the Vienna Declaration and Programme of Action.

39. Kazakhstan was bidding for the chairmanship of the Organization for Security and Cooperation in Europe (OSCE) in 2009. The chairmanship could serve as a catalyst for reform and further liberalization, democratization and modernization of the country.

40. **Ms. Banzon-Abalos** (Philippines) said that as her country began consultations to formulate a second plan on national human rights action, one of its goals was to plant the seeds for human rights-based governance. Peace processes between the Government and other non-State political groups, such as the Communist Party of the Philippines-National Democratic Front and the Moro Islamic Liberation Front, included mechanisms for the joint monitoring of human rights violations on both sides, exemplifying the conviction that the protection of human rights was a collective responsibility that transcended political and ideological differences.

41. Human rights was also a foundation of her Government's development programmes. President Arroyo, highlighting the close linkage between poverty and human rights, had ordered the allocation of more than 10 billion pesos, or $200 million, to poverty eradication. Halfway to the Millennium Development Goals target year of 2015, the Philippines had already made significant progress. Decreases in the proportion of people living in extreme poverty, infant mortality rates and cases of HIV infection were reported. Also, an increase in the number of girls enrolled in primary school had been reported.

42. Her Government had taken two significant steps in reaffirming its commitment to human rights. The Philippines had signed the Convention on the Rights of Persons with Disabilities, which would complement the Philippines' national Magna Carta for persons with

disabilities. It had also signed the second Optional Protocol to the International Covenant on Civil and Political Rights. Another law had effectively removed the death penalty from the country's statute books. Lastly, the Philippine Constitution mandated the protection of the life of the unborn.

43. In the region, the Philippines was working with other South-East Asian countries to create a human rights mechanism that was expected to be highlighted in the proposed Charter of the Association of Southeast Asian Nations (ASEAN).

44. Her country was one of the few that had invited Mr. Philip Alston, Special Rapporteur on extrajudicial, summary or arbitrary killings, to visit. His visit in February 2007 had enhanced national discussions on the protection of human rights, both in policy and in practice. The Government's improved strategy covered the executive, legislative and judicial branches and ensured a comprehensive approach to human rights issues. The strategy was based on five directives, which concerned strengthened investigation, increased prosecutions and convictions, strengthened witness protection, clear comprehension of the concept of command responsibility within the armed forces and increased cooperation with the national commission on human rights, an independent constitutional body. The armed forces had also established a human rights office to investigate and prosecute cases that might involve military personnel.

45. Her Government had adopted a comprehensive approach to the protection of migrant workers' rights and promotion of their development, which included a gender-sensitive perspective. It had tabled its biennial resolution on violence against women migrant workers, and reiterated the call to States and all stakeholders to adopt a gender-sensitive human rights-based approach in all areas of governance and work involving migrants.

46. The Philippines attached great importance to the work of the Human Rights Council, and, as a founding member, would be among the first to undergo the universal periodic review. It welcomed the opportunity and expressed the hope that the review would be constructive and cooperative. Finally, her Government called for a strengthening of the mandates of the Special Rapporteur on the human rights of migrants and the Special Rapporteur on trafficking in persons, especially women and children, as both issues related to the country's growing experience of globalization.

47. **Mr. Menon** (Singapore) said that at its inception, the Third Committee had been envisaged as a forum for countries to identify common objectives and to work together to achieve those goals. His delegation expressed its concern that the Committee had become a forum where some countries, under the justification of human rights, used the General Assembly to impose their views and systems of justice on other countries, and that any country that disagreed with those views was denigrated. It was disappointed that the European Union had decided to introduce a resolution on the death penalty, as it had done in 1999. The sponsors of the resolution were entitled to their views on the death penalty, and his Government understood and respected the position of countries that opposed the death penalty as a matter of principle. However, it appeared that those countries were incapable of extending the same courtesy to countries that had chosen to retain the death penalty.

48. His delegation reminded the Committee that capital punishment was neither prohibited under international law nor a violation of human rights standards. The Universal Declaration of Human Rights, cited by the proponents of the resolution, did not forbid the use of the death penalty. At the time of its adoption in 1948, the death penalty had been on the books of a number of European Union countries, and that had held true until as recently as 15 years earlier; that meant that those countries had signed the Universal Declaration with the clear understanding that the death penalty was not a human rights issue. Although the European Union countries had decided to abolish the death penalty, they were not entitled to demand that all others should follow suit, particularly when the recent debate on the death penalty in Poland had shown that the issue was still contested within some European societies. the fact that even the International Covenant on Civil and Political Rights allowed capital punishment to be imposed for the most serious crimes refuted any claim that there was an international consensus that capital punishment violated human rights.

49. His Government was opposed to that draft resolution. For many countries, including his own, the application of the death penalty was a criminal justice issue, not a human rights issue. It was an important component of Singapore's justice system, and it was imposed only for the most serious crimes and served as

a deterrent. Proper legal safeguards were in place to prevent any miscarriage of justice. His delegation believed that it was the right of every citizen in Singapore to live in a safe environment free from criminal threat to their lives and personal safety. Every country had the sovereign right to choose its own criminal justice system.

50. Some European Union countries had suggested a moratorium on executions as a compromise, but it was clear that the ultimate objective of a moratorium was abolition. In any event the aim of the draft resolution was to impose the views and values of the sponsors on those who held a different view. The decision to table that draft resolution was a clear indication that its main proponents were not interested in a compromise.

51. In the absence of an international consensus on the death penalty, countries on either side of the argument had no right to impose their opinions. Respect for human rights must include respect for diversity, but tolerance for diversity could not be restricted to positions where one was in agreement. Singapore respected the decision of other countries to abolish the death penalty or impose a moratorium on it and did not seek to impose its views on others. His delegation asked only that the same respect be extended to it.

52. **Mr. Riofrío** (Ecuador) said that the establishment of the Human Rights Council had presented the challenge of providing that body with the legitimacy and impartiality that had given it credibility and respectability. His Government welcomed the Human Rights Council's adoption by consensus of the document on institution-building (resolution 5/1), establishing the guidelines for the universal periodic review and expressed the hope that the General Assembly would adopt the document as soon as possible in order to facilitate its implementation.

53. His Government was honoured to be a member of the Human Rights Council and had participated actively in drafting and adopting the Declaration on the Rights of Indigenous Peoples and the Convention on the Rights of Persons with Disabilities. It had also played an active role in protecting the human rights of migrants and in combating human trafficking, and it endorsed the Special Rapporteur's belief that a human rights perspective should be incorporated into all international discussions on migration and development. A national plan to combat human trafficking and sexual, labour and other forms of exploitation had been implemented since 2006.

54. In 2002, his Government had established a commission on public coordination for human rights, an interministerial body that worked with civil society to draft periodic reports for international human rights mechanisms and to follow up recommendations made by such mechanisms. He reiterated his Government's invitation to all United Nations human rights mechanisms to evaluate his country's human rights situation on the ground, through official visits, as a number of mechanisms had done since 2002.

55. **Mr. Vigny** (Switzerland) said that it was necessary to find an appropriate balance between the Third Committee of the General Assembly and the Human Rights Council in order to make their mission of promoting and protecting human rights more credible and avoid overlap. Presenting reports of special procedures to the Third Committee and the Human Rights Council with an interval of only a few weeks clearly constituted a duplication of work. He stressed that the Human Rights Council had the right and autonomy to adopt certain decisions and recommendations, as well as to take initiatives, for which it did not require advance approval from the General Assembly.

56. Switzerland opposed the death penalty and advocated its universal abolition. The right to life was the most basic of all human rights, and the death penalty was difficult to reconcile with the spirit and goals of human rights. Although judges should be able to impose the severest penalties for the most serious crimes, capital punishment was inhuman, irreversible and all the more abhorrent because of the possibility of executing an innocent person.

57. The deterrent effect of the death penalty had never been proved, and those States that had abolished it had not witnessed an increase in violent crime. Progress towards the abolition of capital punishment had been encouraging, with 130 States having removed the death penalty from their statute books. Nine-tenths of all executions took place in six countries: China, the Islamic Republic of Iran, Iraq, Pakistan, the Sudan and the United States. He called on all countries that still practised capital punishment to abolish it as soon as possible, or at least to impose a moratorium immediately, thereby contributing significantly to the promotion of human rights.

58. **Mr. Nguyen Tat Thanh** (Viet Nam), stressing the universality, indivisibility and interdependence of human rights, said that the particular circumstances and needs of specific groups or localities must also be addressed. Viet Nam continued to do its utmost to improve the material and spiritual lives of all its citizens, with economic and social development policies increasingly focusing on the inhabitants of poor rural and mountainous areas. Efforts were being intensified to secure the enjoyment by such people of their human rights, including freedom of religion or belief. The Government facilitated the activities of the country's nine religions, which coexisted equally and peacefully and were freely practised. Protestantism, a more recent import, was rapidly gaining ground, and the Government was particularly keen to ensure that it enjoyed an equal footing with other religions. Representatives of the various religions actively participated in international and regional initiatives promoting interreligious dialogue and a culture of peace.

59. As part of its efforts to improve the situation of groups with special needs, including 5 million of its citizens living with disabilities, Viet Nam had recently signed the Convention on the Rights of Persons with Disabilities. Domestic procedures were currently under way to ensure its smooth implementation. Measures continued to be implemented to improve the socio-economic development, inclusion and participation of persons with disabilities.

60. Convinced that the enjoyment of human rights and fundamental freedoms by all depended on dialogue, not confrontation, Viet Nam was engaged in a human rights dialogue with a number of countries and had published a "White Book" on religions as a follow-up to its "White Book" on human rights.

61. **Ms. Juul** (Norway) said that Norway had presented its candidature to the Human Rights Council for 2009-2012 and was committed to working through engagement, dialogue and cooperation in order to make the Council a credible and effective tool.

62. Respect for the right of freedom of expression was fundamental to any democratic society, and her delegation wished to call on countries to lift undue restrictions to that right, including on the Internet. Balancing freedom of expression with respect for diversity was a challenge for all, to be met through constructive and peaceful dialogue. The freedoms of assembly and association were also cornerstones of a pluralistic democracy. Citizens should have the right to advocate the promotion and protection of human rights and be able to question or criticize without fear of reprisal. Human rights defenders deserved the greatest possible respect and support from the international community.

63. The situation in Myanmar necessitated continued international engagement. She condemned the gross and systematic violations of human rights in that country and urged the Government to engage in inclusive dialogue with the democratic opposition and representatives of ethnic groups and to cooperate fully with United Nations human rights and development mechanisms. All political prisoners, including Aung San Suu Kyi, should be released.

64. The human rights situation in the Sudan remained complex, despite the integration of human rights in the peace agreement between the north and south, the adoption of several laws in that respect by the new Government in Khartoum and a gradual opening of the press and preparations for national multiparty elections. The war in Darfur, however, had grave bearings on the human rights situation for the population in the west of the country. The African Union-United Nations Hybrid Operation in Darfur (UNAMID) should be rapidly deployed to Darfur to provide improved security for millions of civilians. The new Darfur peace talks under way in the Libyan Arab Jamahiriya Peace must succeed in order to bring justice, human rights and development to that part of the country.

65. With elections again postponed, peace talks in Nepal were at a critical juncture. The people of Nepal had, however, shown a formidable will to move away from conflict. OHCHR had played a vital catalytic role in the process and could do so again. It was to be hoped that political entrepreneurs would not stray from their commitment to create a new and democratic society and that an opportunity for positive change would not be missed.

66. Her delegation welcomed amendments in the penal code relating to basic human rights in North Korea, but reiterated its appeal to the Government to improve the grave human rights situation and the economic and social status of its citizens.

67. Every possible effort should be made by the international community and the Iraqi Government to

find political solutions to the deteriorating humanitarian situation in the country. Norway had increased its assistance to Iraq and Iraqi refugees to $17 million.

68. Of concern also was the increasing suppression of civil society, limitations on the freedom of expression and the increased use of the death penalty in the Islamic Republic of Iran, especially the barbaric methods used in the application of capital punishment.

69. Norway's position was that the death penalty constituted a cruel and inhuman punishment and a violation of the right to life. Her delegation welcomed the trend towards universal abolition, but deeply regretted the recent execution of 15 people in Afghanistan. It called for a moratorium on the use of the death penalty in cases where it was not already abolished by law.

70. The General Assembly, with its universal membership, should continue to deal with human rights on a substantial basis. Her delegation wished to pay tribute to the High Commissioner and her Office for their lead role in mainstreaming human rights throughout the United Nations. It also supported her being invited to brief the Security Council, when appropriate, and called on Member States to honour their commitment to double the regular budget resources of OHCHR by 2010.

71. **Mr. Linggi** (Malaysia) said that the guarantee of the fundamental rights and liberties of the individual were a cornerstone of national governance. The Government continued to promote racial harmony, people-centred development and participatory processes. In 50 years of independence, Malaysia's pluralistic communities had been nurtured into one harmonious society, thanks to mutual respect and tolerance and a readiness to balance individual rights with the interest of the larger community. Malaysia believed all human rights were universal, indivisible, interdependent and interrelated, and that the international community must treat human rights globally in a fair and equal manner, on the same footing and with the same emphasis. At the international level, the promotion and protection of human rights must be undertaken by all countries, taking full account of national and regional particularities and different historical, cultural and religious backgrounds.

72. His delegation was acutely concerned at the increase in incidences of Islamophobia and incitement to racial and religious hatred. An affront to an individual's religion was an affront to the religion itself and all its believers. Malaysia's experience as a multi-racial and multi-religious country showed that peaceful and harmonious coexistence was possible through the promotion of respect and tolerance, especially of religion. While his delegation believed in the right to freedom of opinion and expression, there was a need for a more responsible exercise of that right, particularly in a globalized world characterized by instantaneous information exchange. The infamous caricatures of the Prophet Muhammad that had appeared in a Western newspaper the previous year must never be repeated. The media should not shirk its responsibility to promote tolerance and understanding among societies, religions and civilizations.

73. At the international level, there was a need for a more constructive and consistent approach to human rights issues, and selectivity and politicization should be avoided.

74. All States had the inalienable right to choose their own political, economic, social and cultural systems without interference by any other State. There was no international consensus on whether the death penalty was a violation of human rights, nor should there be any attempt to impose such a viewpoint on others, or onto the work of the Committee. For Malaysia, the death penalty was a criminal justice issue. Capital punishment was imposed only for the most serious crimes.

75. It was imperative that the provision of technical assistance in the field of human rights should fully respect the principle of prior request and consent of the State concerned. The focus should be on dialogue, engagement and cooperation. The universal periodic review provided a good alternative to country-specific reports.

76. While some Member States were preoccupied with the human rights situations in certain countries, they appeared almost indifferent to the situation in the occupied Palestinian territories. His delegation wished to reiterate that the issue deserved immediate attention and action by all Member States, particularly so-called human rights defenders. He had cited Palestine not out of selectivity, but due to the gravity of the long-standing problem.

77. The right to development remained a cornerstone of human rights, and all efforts needed to be made to ensure the sanctity of that right, including through continued support of the work of the Working Group on the Right to Development of the Human Rights Council.

78. Lastly, Malaysia was committed to realizing the highest standards of human rights for all and was ready to work constructively with other Member States to that end.

79. **Ms. Halabi** (Syrian Arab Republic) said that while human rights were universal, each country's unique history and culture needed to be taken into account. Ensuring human rights was a principle enshrined in the Syrian Constitution, and her country had signed over 17 international human rights instruments. In particular, it had signed the Convention on the Rights of Persons with Disabilities as soon as it was opened for signature.

80. Despite the call by the Universal Declaration of Human Rights for human rights to be respected without distinction of any kind, human rights enforcement continued to be selective and politicized. The rapid changes seen in the preceding few decades were a source of hope for some, but a source of frustration for the portion of humankind that continued to be held hostage to violence resulting from regional and international conflicts. For the Israeli occupation, apparently, development meant having one's home destroyed, one's land levelled and one's trees uprooted. In the Golan, Israel imposed prohibitive taxes as high as 50 per cent on the produce of Syrian citizens, and committed acts such as the recent uprooting of one farmer's cherry seedlings which were in direct violation of the provision of article 1 of the International Covenant on Economic, Social and Cultural Rights that a people may not be deprived of its own means of subsistence. It was time for the international community to throw off its selectivity and double standards and address foreign occupation as a source of the most flagrant human rights violations.

81. **Ms. Molaroni** (San Marino) said that the fact that a disabled person had, for the first time in San Marino's history, been elected to the highest level of government showed that times were changing and that people with disabilities were well able to assume any profession. San Marino had worked for many years on equal rights for all and had been one of the first signatories of the Convention on the Rights of Persons with Disabilities. Accessibility for people with disabilities had been strengthened, including in old parts of town. Non-governmental organizations (NGOs) were also active in the field of equal rights and opportunities. One such NGO, Attiva-mente, had, inter alia, organized a "dinner in the dark" to raise awareness of issues facing blind people. The Republic was also proud of its yearly participation in the Special Olympics. She was pleased to report that public awareness of disability-related issues was increasing. A social conscience was what was needed for everyone to be equal.

82. **Mr. Kemp** (Australia) said that Australia took a practical approach to human rights, supporting efforts that brought real improvements to the lives of individuals. The credibility of the Human Rights Council would depend on its ability to act decisively and quickly on the most pressing situations. The universal periodic review could potentially become an effective tool for assessing the human rights records of Member States.

83. Cooperative multilateral initiatives, backed by political will, could do much to advance human rights. Australia was a supporter of the Asia-Pacific Regional Interfaith Dialogue which, inter alia, promoted the right to freedom of religion or belief.

84. Among the situations requiring concerted international attention, Australia remained gravely concerned about the situation in Burma.

85. **Mr. Myint** (Myanmar), speaking on a point of order, said that his country's official name was Myanmar.

86. **The Chairman** appealed to delegations to use the official country name.

87. **Mr. Kemp** (Australia), continuing his statement, said that his delegation was appalled by the regime's violent response to peaceful protests and the suppression of the pro-democracy movement. It urged it, immediately and unconditionally, to release all political prisoners and to treat detainees humanely. The people had clearly demonstrated their desire for genuine reform and national reconciliation. The Government must heed that call and extend full cooperation to the relevant special procedures of the United Nations.

88. The suppression of opposition voices continued also in Zimbabwe, where the regime persisted in demonstrating contempt for democratic principles. It paid no heed to international opinion or the needs of its own people, and its economic policies were devastating. The situation reflected a dangerous disregard for human welfare, with more than 10,000 per cent inflation, over 80 per cent of the population unemployed and living below the poverty line, and the lowest life expectancy of any country.

89. The humanitarian tragedy in Darfur was also a matter of deep concern. The Government of the Sudan had failed to uphold its responsibility to protect its citizens, as evidenced by large-scale attacks on civilian communities, rape and sexual violence and a prevailing climate of impunity. His delegation welcomed plans for the redeployment of an enhanced peacekeeping force and called on all parties to facilitate its deployment. It also urged all parties to the conflict to engage in the peace process.

90. While welcoming recent progress on the nuclear issue and in inter-Korean relations, his delegation remained gravely concerned about the human rights situation in the Democratic People's Republic of Korea, most particularly the suppression of freedom of expression, religion and opinion, as well as torture and imposition of the death penalty for political reasons.

91. In the Islamic Republic of Iran, the intimidation and persecution of political reformists, students, NGOs, human rights defenders and labour organizers was a matter of increasing concern. His delegation deplored recent stoning sentences and the execution of persons who had been under 18 years of age at the time of their offence. It called on the Government to halt systematic discrimination against women and to cease discrimination against ethnic and religious minorities.

92. In Fiji, intimidation of opponents and critics of the military regime continued. The interim administration should take prompt steps to restore parliamentary democracy by holding credible elections.

93. His delegation was also increasingly concerned at human rights violations in Sri Lanka, including escalating violence and extrajudicial killings, and called for peace negotiations. It also reiterated its support for the establishment of an independent human rights monitoring mechanism.

94. Where States failed to meet their responsibility to protect their own populations, the international community must act.

95. **Mr. Ehouzou** (Benin), speaking on behalf of the African Group, said that African countries had, during the past two decades, moved into an era of democracy and respect for human rights; the trend of democratization was irreversible. However, Africa was not on track to attain any of the Millennium Development Goals. Even the best governed States on the continent had been unable to reduce extreme poverty. He stressed that the full realization of human rights was contingent on economic and social rights; the process of realizing social rights could not be sustained if economic development lagged behind.

96. The United Nations human rights mechanisms, including the Human Rights Council, should engage in a constructive dialogue with all countries, based on the principles of impartiality, objectivity and non-selectivity. The African Group was interested in seeing the Human Rights Council fulfil its mandate to undertake a universal review of human rights throughout the world. To that end, it should depart from unnecessary confrontation and avoid double standards on country-specific situations. Member States should forego using parallel procedures that could undermine the Council's work and, in that respect, the African Group welcomed the recent package regarding special procedures. In addition, the advisory services and technical assistance of OHCHR, as well as of other relevant United Nations programmes and bodies, should be strengthened to promote human rights.

97. The year 2008 would mark the sixtieth anniversary of the Universal Declaration of Human Rights, and the African Group supported Benin's initiative to introduce an item on the agenda of the General Assembly to celebrate that occasion, with a view to adopting a resolution.

98. **Mr. Sareer** (Maldives) said that the recommendations of the Special Rapporteur on the independence of judges and lawyers pursuant to a recent visit to the Maldives were welcome at a time when his country was strengthening its legal and judicial sector as part of a wide-ranging reform agenda. His Government was also undertaking initiatives for the capacity-building and training of judges and lawyers and had recently appointed the first woman

judge in the Maldives. Committed to the international legal regime, it was working with the United Nations human rights special procedures and the national human rights adviser appointed by OHCHR. The Maldives had recently ratified the United Nations Convention on the Rights of Persons with Disabilities and was in the process of finalizing a national policy on disability.

99. Believing that global warming posed a threat to security and therefore had clear human rights implications, his country appreciated the fact that the Security Council had for the first time held a debate on climate change in April 2007. The Maldives would be hosting a small island developing States conference on the human dimension of global climate change in November 2007.

100. **Mr. Vassylenko** (Ukraine) said that human rights should be a third pillar of the work of the United Nations. His country was proud to be involved in the process of adopting the new institutional machinery of the Human Rights Council and would spare no effort in furthering that body's activities. Its aspirations for membership of the Council in 2008 were based on its centuries-long national tradition of tolerance within a multi-ethnic and multi-religious society.

101. Having already abolished capital punishment, Ukraine had recently become a party to the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty.

102. As far as the environmental dimension of human rights was concerned, Ukraine stressed that environmental crises threatened peace and security, thereby undermining human rights. It was vital to establish environmental standards to protect the earth for the benefit of all human beings.

103. The recently created Advisory Committee on Genocide Prevention was worthy of encouragement and support, and Ukraine commended the Secretary-General's decision to upgrade the post of Special Adviser on the Prevention of Genocide.

104. Finally, Ukraine's commitment to promoting and protecting human rights had been incorporated into its domestic and foreign agenda.

105. **Mr. Suárez** (Colombia), referring to the interim report of the Special Rapporteur on the right to food (A/62/289), said that his delegation did not support the Special Rapporteur's recommendation that States should establish a five-year moratorium on all initiatives to develop biofuels. His country would therefore continue to implement its national biofuels policy, which was consistent with its food security policies and designed to overcome poverty and inequity in rural areas. The United Nations special procedures system should include the States concerned in the formulation of recommendations. Only then could conclusions be reached in full knowledge of the facts.

106. Turning to the report of the Special Representative of the Secretary-General on the situation of human rights defenders (A/62/225), he said that there had been a considerable decline in the number of attacks on human rights defenders in Colombia. That decline could be attributed to his Government's democratic security policy, the strengthening of institutions, the weakening of the illegal armed movements and the massive demobilization of self-defence groups. Progress had also been made in reducing impunity. The Attorney-General's Office had set up a special unit, with the help of the International Labour Organization (ILO), to investigate the murder of trade union officials.

107. The democratic security policy had also resulted in a substantial decrease in the annual number of new cases of internal displacement. The programme of comprehensive care to the internally displaced population continued to be strengthened, in accordance with the recommendations of the Representative of the Secretary-General. The cooperation of the international community was essential in order for progress in that area to continue.

108. His delegation appreciated the European Community's recognition of President Uribe's efforts to restore State legitimacy and appealed to the international community to support Colombia's attempts to defend democracy against organized crime carried out by terrorist groups and criminal gangs. Both were funded by the illicit drug trade, which was the root cause of the attacks made against the rights and freedoms of the Colombian people.

The meeting rose at 12.55 p.m.

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Chairman: Mr. Wolfe ..... (Jamaica)

Contents

Agenda item 70: Promotion and protection of human rights (*continued*)

(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (*continued*)

(c) Human rights situations and reports of special rapporteurs and representatives (*continued*)

(e) Convention on the Rights of Persons with Disabilities (*continued*)

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07-57011 (E)

The meeting was called to order at 3.05 p.m.

Agenda item 70: Promotion and protection of human rights (A/62/36, A/62/369 and A/62/464)

(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (A/62/183, 207, 212, 214, 218, 222, 225, 227, 254, 255, 265, 280, 286-289, 293, 298, 304 and 317; A/C.3/62/3)

(c) Human rights situations and reports of special rapporteurs and representatives (A/62/213, 223, 263, 264, 275, 313, 318, 354 and 498; A/C.3/62/4)

(e) Convention on the Rights of Persons with Disabilities (A/62/23*o*)

1. **Mr. Chabar** (Morocco) said that protection of human rights had been strengthened during the nearly 60 years since the adoption of the Universal Declaration of Human Rights, but it was an ongoing struggle which his country had resolved to pursue through concrete measures. Thus, Morocco's Human Rights Consultative Council, which had been reorganized in 2001, enjoyed broad powers for the protection of human rights and fundamental freedoms. The Equity and Reconciliation Commission, which had submitted its final report in 2005, had helped to compensate and rehabilitate several hundred victims of ill-treatment. A mediator (*Diwan Al Madhalim*) had assumed office with the mandate of helping to resolve disputes between citizens and government. A new family law code adopted in 2004 enshrined equality between men and women, and the national plan of action for children laid down the actions to be pursued in order to promote the rights of the child during the decade 2006-2015. Finally, the Royal Institute of the Amazigh Culture, created in 2001, endeavoured to promote that culture and to integrate it into the national educational system.

2. In order to comply with international standards, Morocco had amended its Code of Criminal Procedure, strengthening protection for defendants and recognizing the supremacy of international conventions. It had abolished the Special Court of Justice, a court with exceptional powers, and had strengthened the powers of the courts of appeal. And it had adopted a law against torture consonant with relevant international instruments.

3. Recently, Morocco had recognized th competence of the Committee on the Elimination Racial Discrimination, had withdrawn two reservatio previously formulated with respect to the Conventio against Torture and the Convention on the Rights of th Child and had signed the International Convention fo the Protection of All Persons from Enforce Disappearance and the Convention on the Rights Persons with Disabilities.

4. Morocco welcomed the adoption in Septembe 2007 by the Human Rights Council of the resolutio concerning the United Nations declaration on huma rights education and training, of which Morocco was sponsor.

5. **Mr. Pramudwinai** (Thailand) said that hi country had attached great importance to the Universa Declaration of Human Rights since its adoptio During the nearly 60 years since that event, worldwide consciousness of human rights had emerge which deserved to be nurtured. The internationa human rights architecture had been considerabl strengthened. Thailand hoped that the Human Right Council would prove a constructive mechanism an especially welcomed the agreement on the universa periodic review, in which it placed high expectation By adopting a new mindset and a new way of workin together, the international community could seize th opportunity to advance human rights.

6. Human rights should also be nurtured at th national level. Thailand continued to promote huma rights consciousness among its citizens, in particula by introducing human rights into school curricula taking into account local cultures and specificities Thailand was a party to the principal internationa human rights instruments and, in 2007, had signed th Convention on the Rights of Persons with Disabilitie and acceded to the Convention against Torture an Other Cruel, Inhuman or Degrading Treatment o Punishment. Thailand's commitment to human right emerged also from its new constitution, adopted by referendum in August 2007. The product of a inclusive process of consultation, it strengthened th protection of fundamental rights and freedoms an opened the way to free and fair general elections set fo December 2007.

7. Thailand also welcomed the emergence of man regional human rights mechanisms, particularly i South-east Asia, where the future human rights body o

the Association of Southeast Asian Nations (ASEAN) would become a milestone in the context of ASEAN integration. Despite their great diversity, the ASEAN countries were bound by shared values, notably justice and respect for human rights.

8. On the eve of the sixtieth anniversary of the Universal Declaration of Human Rights, it should be recalled that human rights could not be imposed by an external authority, but should remain a constant aspiration in each individual's daily life.

9. **Mr. Sergiwa** (Libyan Arab Jamahiriya) welcomed the efforts being made by the United Nations and its special procedures mandate holders to ensure that international human rights instruments were implemented. Unfortunately, not all human beings enjoyed full and equal enjoyment of those rights. The Palestinian people, in particular, continued to experience grave violations of their fundamental rights. Following the attacks of 11 September, Muslims had been the target of hostile campaigns and had been wrongly accused of human rights violations. Respect by all for the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief should be ensured.

10. Despite the appeals of the international community for non-selective application of international instruments, some peoples were still not able to exercise their social, economic, civil and political rights. Some countries used human rights as a pretext for impairing the interests of other countries. The international community should strictly apply the principles of objectivity and impartiality laid down in the Vienna Declaration and Programme of Action, in order to prevent all forms of aggression, whether by individuals or States, and to eliminate obstacles to the realization of the right to development, a right which was as fundamental as the right to health, the right to food and the right to escape poverty. The Libyan Arab Jamahiriya trusted that the Human Rights Council would work towards that end.

11. His country was not prepared at the current time to abolish capital punishment as a deterrent to crime, but it imposed the death penalty only for extremely serious offences and only in the framework of due process.

12. The Libyan Arab Jamahiriya had acceded to the core human rights instruments, had incorporated them into its domestic law and ensured that they were respected, as was evidenced by the reports that his Government submitted regularly to the treaty monitoring bodies.

13. **Ms. Borjas Chávez** (El Salvador) thanked the Secretary-General for enabling the preparation of all the reports currently before the Committee. El Salvador reiterated its solid commitment to respect for human rights and fundamental freedoms, as affirmed in the San José Agreement of 1990, and its determination to implement them at the national level, according particular attention to vulnerable groups. In addition to a human rights directorate, it had set up an inter-institutional commission to trace children who had gone missing during the armed conflict, and the commission's work was already bearing fruit. The Government had also launched an aid programme aimed at improving access to food, health care, education and basic services for poor families.

14. Every State had a duty to strengthen the rule of law and to respect its international obligations. Sovereignty could not be used as a pretext for condoning violations. Indeed, it was sovereignty that enabled States to agree voluntarily to be bound by international instruments. El Salvador was a party to the major human rights instruments and had recently ratified the Convention on the Rights of Persons with Disabilities and its Optional Protocol. It had also recognized the jurisdiction of the Inter-American Court of Human Rights.

15. The United Nations had a key role to play in exhorting States to adhere in good faith to international human rights standards. El Salvador attached great importance to the work of the special rapporteurs and representatives, and it cooperated with all of the treaty monitoring bodies, to which it reported regularly.

16. El Salvador reiterated its support for the Human Rights Council and was confident that it would successfully discharge the mandate with which it had been entrusted by the General Assembly, thus dispelling the doubts that had surrounded its establishment. The United Nations system had the opportunity to address the issue of human rights more effectively and more transparently. To that end, the Council must be given the resources needed to carry out its work, and good relations between the Council and the Third Committee must be assured.

17. **Mr. Natalegawa** (Indonesia) reiterated his country's firm commitment to the principle that human

rights were universal, indivisible and interdependent. Welcoming the accomplishments of the Human Rights Council since its establishment, he stressed that much remained to be done, and that the Council could count on Indonesia's active cooperation.

18. His delegation welcomed the introduction of the universal periodic review and looked forward to the finalization of the guidelines in December and to the first review in April 2008, for which Indonesia had been selected.

19. Indonesia cooperated fully with the international machinery for the protection of human rights. His Government had recently submitted periodic reports to the Committee on the Elimination of Racial Discrimination and the Committee on the Elimination of Discrimination against Women, and was currently studying their recommendations, which it had made public. Indonesia's report to the Committee against Torture would be considered in May 2008. His Government also cooperated fully with special procedures mandate holders, three of whom had visited the country between December 2006 and November 2007.

20. The reforms that his Government had undertaken in the past decade had not been without challenges, but they had enabled Indonesia to become one of the biggest democracies in the world, one in which diversity and the rights of individuals were protected. The country's Constitution had been made consistent with the Universal Declaration of Human Rights, a constitutional court had been established and in 2004 a five-year plan of action on human rights had been launched. At the regional level, Indonesia had played an active role in drafting the Association of Southeast Asian Nations (ASEAN) Charter and in establishing a regional human rights mechanism.

21. Elected in 2006 to a second term on the Human Rights Council, Indonesia was committed to the promotion and protection of human rights at all levels, attaching great importance to forming partnerships with civil society and to confronting its challenges in an open and transparent manner. The United Nations High Commissioner for Human Rights had, on various occasions, commended Indonesia's remarkable progress towards democracy.

22. His delegation had therefore been baffled to hear the negative reference by the representative of the European Union about the situation of human rights defenders in Indonesia, which was, moreover, inconsistent with the views expressed by European dignitaries at the end of the latest ministerial meeting between the European Union Troika and Indonesia in March 2007. His Government remained committed to advancing the cause of human rights in Indonesia and worldwide and to strengthening the effectiveness of the United Nations human rights machinery.

23. **Mr. Vohidov** (Uzbekistan) said that his country believed in the unity of all human rights, including civil, political, economic, social and cultural rights. It also believed that international cooperation with regard to human rights should be guided by the principles of equality and mutual respect and should take into account the socio-economic development and historical and cultural traditions of each society. Uzbekistan supported the international community's efforts to ensure universality, impartiality, objectivity and non-selectivity in the examination of human rights issues. Cooperation on human rights should be fair and transparent.

24. His Government was strongly opposed to the use of human rights issues as a means of interfering in the internal affairs of Member States. Moreover, experience had shown that there was not a universal model of democracy that was equally suitable for all States, and that attempts to impose uniform standards of democracy without taking into account the historical and social context and the traditions of countries were counterproductive.

25. Uzbekistan wished to strengthen its cooperation with all United Nations human rights bodies and other stakeholders. Noting that Uzbekistan had ratified without reservation all the core United Nations human rights treaties, he briefly outlined the action that his country was taking with regard to the protection of human rights. First, it had brought its domestic legislation into line with the core United Nations instruments. Second, it was cooperating with the United Nations human rights treaty bodies, regularly submitting periodic reports on its implementation of treaty provisions. Third, it carried out the recommendations made by those bodies, placing particular emphasis on the development and implementation of national plans of action to give effect to such recommendations. Fourth, Uzbekistan was also developing its national machinery for the promotion and protection of human rights. Fifth, the country was devoting considerable effort to reforming

its judiciary with a view to ensuring its independence. Sixth, great attention was being given to the expansion of training programmes in the area of human rights. Seventh, the country was putting in place a non-governmental system for the protection of human rights. The Uzbek parliament had adopted laws that laid a solid legal foundation for the development of non-governmental organizations (NGOs), and a national association of NGOs and a fund to support their activities had been set up.

26. **Ms. Banks** (New Zealand) said that her country's priorities in the field of human rights included the rights of women, children and disabled persons and the abolition of the death penalty. Capital punishment was an affront to human dignity and New Zealand, which had long been opposed to its use, whatever the circumstances, had been the first country to become party to the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty. Her delegation was concerned that many countries continued to impose that cruel, inhuman and irreversible punishment. It was thus pleased to be a sponsor of the draft resolution on a moratorium on the use of the death penalty, with a view to the eventual abolition of capital punishment, the adoption of which by the General Assembly would constitute a milestone in the efforts of the international community to that end.

27. Her delegation was pleased that the Human Rights Council had finalized its institution-building process and would be able to focus clearly on its core business and fulfil all aspects of its mandate. The Council's universal periodic review mechanism would enable it to assess all country human rights situations in an open and equitable manner, but the mechanism could not be a substitute for the existing procedures. The worst situations would continue to require the special attention of the General Assembly and other bodies, and her delegation would continue to support country resolutions relating to serious human rights violations.

28. The human rights situation in a number of countries was a matter of deep concern. Her delegation called on the Government of Myanmar to end its violent response to protests, release political prisoners and engage in peaceful and constructive dialogue. It was encouraging that the Government had agreed to host a visit to the country in November 2007 by the Special Rapporteur on the situation of human rights in Myanmar.

29. Her delegation had once again sponsored a resolution on the human rights situation in the Islamic Republic of Iran, which had deteriorated still further.

30. She expressed grave concern about the political, economic and humanitarian situation in Zimbabwe, where arbitrary arrests, torture and intimidation continued to be used to control dissent. Her delegation welcomed, however, the efforts being made to find acceptable solutions to the problems faced by Zimbabwe and hoped that they would result in the holding of free and fair elections.

31. In Darfur, the situation remained extremely serious. Her delegation hoped that all the parties to the conflict, especially the Sudanese Government, would enable the African Union-United Nations Hybrid Operation in Darfur to be deployed as soon as possible.

32. Lastly, she drew attention to the human rights situation in Fiji, where, since the coup d'état in December 2006, serious human rights abuses had occurred. Her delegation welcomed, however, the interim Government's commitment, at the recent meeting of the Pacific Islands Forum, to holding free and fair elections. It keenly awaited the implementation of that commitment.

33. **Ms. Mtshali** (South Africa) said that her statement would focus on the issue of the realization of the right to development. General Assembly resolution 48/141 of 20 December 1993, which had established the Office of the High Commissioner for Human Rights, mandated the High Commissioner to promote and protect the realization of the right to development and to enhance support from relevant United Nations bodies. The Research and Right to Development Branch established within the Office of the High Commissioner to that end should demonstrate greater commitment to the realization of that right.

34. Although the major United Nations conferences and summits had, in their substantive outcomes, addressed all the developmental issues requiring the attention of the international community, implementation of the necessary measures remained elusive. Failure to achieve the objectives set forth in the outcomes of those conferences and meetings, including the Millennium Summit of 2000 and the millennium review summit in 2005 had a serious

negative impact on the effective exercise of the right to development by many citizens of the developing world. For that reason, the African countries had established the New Partnership for Africa's Development (NEPAD) and the African Peer Review Mechanism of the African Union as instruments of international cooperation with a view to the realization of the right to development. Her delegation called on the international community, including the private sector, to work in partnership with Africa within the framework of NEPAD and the African Peer Review Mechanism in order to attain those objectives.

35. Her delegation shared the position of the Non-Aligned Movement on the realization of the right to development and was firmly convinced of the need to elaborate minimum international standards, in the form of a convention on the right to development. Her delegation was seriously concerned that, in some quarters, the notion was propagated that the right to development was the sole responsibility of States acting at the national level. That approach ran counter to Goal 8 of the Millennium Development Goals, which sought to develop a global partnership for development. There could be no doubt that the forces of globalization required a collective response to the global threats enumerated in the note by the former Secretary-General transmitting the report of the High-level Panel on Threats, Challenges and Change, entitled "A more secure world: our shared responsibility".

36. **Mr. Nebié** (Burkina Faso) said that his country had joined in the worldwide process of promoting and protecting the rights of persons with disabilities during the United Nations Decade of Disabled Persons (1983-1992) and had ratified a number of relevant international instruments such as, for example, the Convention on the Elimination of All Forms of Discrimination against Women, the International Labour Organization Conventions concerning Discrimination in Respect of Employment and Occupation (No. 111), concerning Equal Opportunities and Equal Treatment for Men and Women Workers: Workers with Family Responsibilities (No. 156), concerning Invalidity, Old-Age and Survivors' Benefits (No. 128), concerning Vocational Rehabilitation and Employment (Disabled Persons) (No. 159), concerning Vocational Guidance and Vocational Training in the Development of Human Resources (No. 142) and the Convention on the Rights of the Child, article 23 of which referred to disabled children. Several legislative texts on the subject had been adopted at the national level, including article 18 of the Constitution, which stated that assistance to persons with disabilities was a social right which must be promoted, the Tax Code which exempted persons with disabilities from taxation, the Penal Code which made the rape of a disabled person an offence carrying a prison sentence of 10 to 20 years, the Electoral Code and Decree No. 86/149 of 30 April 1986 concerning the equipping of public facilities with disabled access.

37. Various institutions were responsible for promoting and protecting the rights of disabled citizens: the Ministry for the Promotion of Human Rights, some of whose programmes expressly targeted persons with disabilities; the Ministry of Social Welfare and National Solidarity, which sought to secure the rehabilitation and integration of the disabled in sport and in the social, economic and cultural fields; the Advisory Commission on Labour, which issued reasoned opinions on provision for the disabled in labour legislation; and the National Centre for Orthopaedic Equipment, which played a role in training and coordination.

38. Burkina Faso was, however, aware of shortcomings in putting into effect the provisions of the Convention on the Rights of Persons with Disabilities. On the one hand, insufficient data on the situation of those persons in the country made it difficult for the Government to formulate pro-disabled policies. On the other hand, national action to assist the disabled was poorly coordinated and underfinanced and suffered from a lack of awareness-raising activities; in fact, the disabled themselves were often unaware of their rights. The Convention had not yet been ratified by his country owing to red tape, but a bill to that effect would soon be introduced in parliament, and his Government was on the point of endorsing a monitoring report on the Convention's implementation.

39. The authorities of his country intended to overcome those shortcomings by launching an ambitious media campaign intended to reach out to persons with disabilities and the general public and by encouraging closer coordination among public bodies in order to improve the daily lives of disabled persons. While the Government knew that it could rely on the technical and financial support of its bilateral and multilateral partners, it wished to mobilize all the

national stakeholders, in other words, the authorities, civil society organizations, human rights associations and disabled persons themselves and to create an awareness among the population of the need to integrate the disabled into society.

40. His Government was deeply committed to making life easier for persons with disabilities. Lastly, he noted that the mere adoption of a legal instrument was not in itself enough to secure real respect for the rights of the disabled.

41. **Mr. Acharya** (Nepal) said that there were regular reports of serious violations of human rights and fundamental freedoms in different parts of the world, despite the efforts of the competent United Nations bodies, to which Nepal attached great importance. Nevertheless the establishment of the Human Rights Council denoted significant progress towards the enjoyment of human rights by all. He welcomed the adoption of the universal periodic review mechanism and hoped that it would be applied fairly.

42. The Nepalese Government was fully committed to promoting and protecting human rights and fundamental freedoms. The situation in his country had improved considerably since the restoration of democracy in April 2006 and the start of the peace process, because the Interim Constitution of 2007 guaranteed civil liberties and the basic political, social, cultural and economic rights of the Nepalese and the Government had adopted legislative and administrative measures to strengthen democracy and protect human rights.

43. Moreover the Nepalese Government was determined to end the impunity which had prevailed during the armed conflict by setting up a Truth and Reconciliation Commission and by striving to resolve the issue of disappearances. Furthermore, many internally displaced persons had returned to their homes since the end of the conflict, and the Government was endeavouring to ensure that the relevant provisions of the Peace Agreement were implemented.

44. The new Constitution of Nepal which, for the first time, would be written by the elected representatives of the people, would rest on the principles of the rule of law, the independence of the judiciary and respect for human rights and fundamental freedoms. He was confident that the headway made in the peace process would lead to the progressive enjoyment of human rights by all Nepalese.

45. As an ethnically diverse nation, Nepal welcomed the adoption of the United Nations Declaration on the Rights of Indigenous Peoples and the Convention on the Rights of Persons with Disabilities, persons whom his Government strove to protect.

46. In order to end traditional discrimination against women, certain disadvantaged ethnic groups and indigenous communities, and Madhesis and Dalits, steps had been taken to boost their participation in public life and integration into society, inasmuch as the Civil Service Act had earmarked certain posts for them.

47. The recent elevation of the National Human Rights Commission to the status of a constitutional body responsible for monitoring the human rights situation in the country was expected to contribute to the enhancement of national capacities for protecting those rights, provided that it received additional technical and financial assistance from the international community, particularly the Office of the United Nations High Commissioner for Human Rights.

48. Nepal was fully honouring all its human rights obligations and continued to cooperate unreservedly with United Nations mechanisms by inviting special procedures mandate holders to visit the country.

49. **Ms. Bhoroma** (Zimbabwe) said that her delegation wished to align itself with the statement made by the delegation of Benin on behalf of the Group of African States. She reaffirmed that the Committee should promote universal respect for all human rights, including the right to development, since poverty was incompatible with respect for those rights.

50. She drew attention to the powerlessness of many African countries which were confronted by poverty, underdevelopment, an unfair trading system and HIV/AIDS. That had been exacerbated by the pursuit of domination on the part of some developed countries, whose leaders clearly lacked the will to seriously reduce the inequalities that prevented the populations of developing countries from enjoying their socio-economic rights. Instead of manipulating human rights issues for political and hegemonic purposes, the European Union and its allies should allocate more resources to enable the fulfilment of the right to life, food and development in the poorest developing countries.

51. She said that the statement by the European Union on the human rights situation in Zimbabwe had been inspired by the United Kingdom as part of its policy of regime change against a former colony, which it sought to regain control over with assistance from a number of Western countries. The relentless campaign of slander against her country was intended to give the false impression that there was internal oppression.

52. The real obstacle to international cooperation in the area of human rights was the greed of the West and its desire to maintain control over Africa's land and mineral resources. Zimbabwe was a victim of unilateral coercive economic and political measures imposed by the European Union, the United States of America and Canada, Australia and New Zealand, which encouraged dissent in Zimbabwe in violation of its sovereign right to choose its own Government and leaders, as enshrined in the Charter of the United Nations. The international community should speak out against such blackmail since Zimbabwe was free to use its resources for its own development and had no apologies to make to anyone for confiscating the land of a minority of white farmers for the benefit of the majority black farmers in the country.

53. She recalled that tens of thousands of Zimbabweans had died to liberate their country from colonialism, and therefore freedom was no vain notion for Zimbabwe. While the situation of human rights and fundamental freedoms in her country was not perfect, Zimbabwe had no need for lectures from States that unjustifiably set themselves up as examples. Her delegation joined those that did not wish to see the Human Rights Council become a political forum used to cast aspersions on particular countries. It was only on an equal footing that members of the international community would constructively advance the cause of human rights cherished by all.

54. **Mr. Takasu** (Japan) said that the promotion and protection of human rights by the international community was assumed to take into account the history, traditions and culture of the countries in question. He also emphasized the importance of the Human Rights Council in the promotion of those rights on a global scale and hoped that resolution 5/1, which laid the foundations for future work of the Council, would be adopted swiftly and without amendments by the General Assembly. The Human Rights Council must be a forum of more effective cooperation and dialogue than the previous body, one capable of enhancing the capacity of States to respect their human rights obligations. As a member of the Council, Japan was committed to playing a constructive role in it and also supported the efforts made by the High Commissioner for Human Rights to strengthen her mission to provide support and assistance to countries in need.

55. He recognized that the overall human rights situation had improved in a world where democracy was progressing and the rule of law was being strengthened. However, the international community should continue to be concerned by the serious ongoing violations of those rights. Japan particularly urged the Democratic People's Republic of Korea to grant the Special Rapporteur on the situation of human rights in that country access to its territory without further delay. It was also essential for the international community to put pressure on the Democratic People's Republic of Korea to resolve the abduction issue in an expeditious manner. Japan would continue its dialogue with a view to settling that issue and others, particularly the unfortunate incidents of the past, in accordance with the Pyongyang Declaration and Plan of Action on South-South Cooperation. It also called upon the Democratic People's Republic of Korea to respect the commitments that it had entered into within the framework of the Six-Party Talks.

56. With regard to the situation in Myanmar, he deplored that fact that the authorities had used force against peaceful demonstrators instead of acting with restraint. The resulting death toll included one Japanese citizen. He, therefore, welcomed the statement made by the President of the Security Council and the resolution adopted by the Human Rights Council and hoped that the Government of Myanmar would undertake to democratize the nation by satisfying the demands of the population and that it would work to establish a meaningful dialogue for national reconciliation and, thus, for a comprehensive peaceful settlement of the situation.

57. Japan supported the Secretary-General's mission of good offices and the efforts of his Special Adviser and invited the Government of Myanmar to cooperate fully with the United Nations. It also welcomed the fact that that Government had agreed to the visit of the Special Rapporteur on the situation of human rights in Myanmar.

58. Emphasizing the role of the international community in assisting countries that were attempting to improve their human rights situation on the ground, he said that the presence of solid democratic institutions in a country contributed to peace and prosperity both at the national level and in the rest of the world. He welcomed and would continue to promote the recent progress made in that area in Nepal and Cambodia, including the adoption in June of the rules of procedure for the tribunal to try the Khmer Rouge. Japan had made voluntary contributions of $21.6 million, i.e. 40 per cent of the total cost of the trial, and had provided one of the international judges who would serve in the Supreme Court Chamber in the hope of a swift and fair trial that would lead to the conviction of those who had perpetrated acts of inhuman cruelty.

59. He announced that his country had become a party to the Rome Statute of the International Criminal Court and that it would actively contribute to the proper functioning of the Court.

60. Lastly, he called on Member States to continue their efforts to promote and protect human rights in the world and to trust that they would be successful, particularly through the empowerment of individuals and zero tolerance. Japan would continue to cooperate with the United Nations towards that end.

61. **Mr. Belinga-Eboutou** (Cameroon) said that he had been encouraged by the statements made after the introduction of the reports on the situation of human rights and fundamental freedoms. States had reaffirmed, on the one hand, the universal, indivisible and interdependent nature of human rights, and, on the other hand, their willingness to promote and protect those rights. He welcomed the progress made year after year: a growing number of States were acceding to the various international human rights instruments and national institutions for the promotion of those rights were being established and strengthened.

62. He noted, however, that reality had not lived up to expectations and that greater attention must be devoted to the right to development with a view to ensuring that mankind was free from fear, want and disease. The Office of the United Nations High Commissioner for Human Rights (OHCHR) must step up its efforts to bridge the gaps between objectives and outcomes highlighted in the reports. Globalization meant that man's intelligence, dignity and well-being must be at the centre of the international community's concerns.

63. He noted with satisfaction that the budget of OHCHR continued to grow, in accordance with paragraph 124 of the 2005 World Summit Outcome, which provided for the doubling of that budget by 2010. Field offices, however, had not benefited as they should have done from the increased budgetary resources available to the Office. Thus, the Subregional Centre for Human Rights and Democracy in Central Africa, in Yaoundé, which carried out multisectoral and multifaceted activities in a dynamic manner, lacked financial and human resources.

64. In closing, and in view of the fact that, to date, no action had been taken, he invited other delegations to call for the full implementation of General Assembly resolution 61/158, which stipulated that OHCHR should bolster the Centre's capacity to act. He also reiterated Cameroon's commitment to promoting human rights in partnership with the United Nations and its Member States, and stressed the need to raise people's awareness of their rights to ensure that they could be enjoyed and, ultimately, respected.

65. **Mr. Kim** Hyun-chong (Republic of Korea) said that his delegation welcomed the adoption of the International Convention for the Protection of All Persons from Enforced Disappearance, the Convention on the Rights of Persons with Disabilities and the United Nations Declaration on the Rights of Indigenous Peoples. In order to fulfil its objectives in the area of human rights, however, the United Nations must be equipped with strong, effective and credible bodies. The Human Rights Council, OHCHR and the treaty bodies were the three pillars of the United Nations machinery in that sphere. The Republic of Korea welcomed the steps taken in June to strengthen the Human Rights Council, in particular the introduction of the universal periodic review. Over and above dialogue and simple cooperation, that mechanism must make a specific contribution to improving the situation of those in need of protection.

66. The whole United Nations system must work together to promote human rights. In that connection, the role of the General Assembly must not be overlooked, particularly because of the synergy between its country-specific resolutions and the universal periodic review conducted by the Human Rights Council. Furthermore, the Republic of Korea

supported the strengthening of the role of the High Commissioner for Human Rights and her Office both at Headquarters and in the field, in particular through the use of country teams. It deplored, however, the ongoing serious and systematic human rights violations in several regions of the world, in particular Darfur, Myanmar and the Middle East.

67. The Republic of Korea was also endeavouring to protect and promote human rights at the national level by strengthening its relevant legislation, institutions and policies. In 2007, the Korean Government had adopted a national plan of action for the promotion and protection of human rights, which dealt with the whole range of laws, mechanisms and policies on human rights and would be implemented from 2007 to 2011. It was also firmly committed to ratifying the Convention on the Rights of Persons with Disabilities and to signing the International Convention on the Protection of All Persons from Enforced Disappearance as soon as possible.

68. **Ms. Filip** (Observer for the Inter-Parliamentary Union) said that the 117th Assembly of the Inter-Parliamentary Union (IPU) had taken place in Geneva in early October. During the Assembly, the *Handbook for Parliamentarians on the Convention on the Rights of Persons with Disabilities*, which had been prepared jointly with the Department of Economic and Social Affairs and OHCHR, had been made public. The Handbook explained the main provisions of the Convention, identified best practices and proposed model legislation. By raising awareness of the Convention among parliamentarians, IPU hoped to facilitate its entry into force and, ultimately, its universal ratification.

69. At its 117th Assembly, IPU had also adopted a resolution on the emergency item, entitled "The urgent need to immediately stop the widespread human rights violations and to restore the democratic rights of the people of Myanmar", in which parliaments worldwide had strongly deplored the reprehensible repression of peaceful demonstrations of monks and civilians in Myanmar in violation of the most fundamental human rights of ordinary citizens, notably their right to life and to freedom of opinion peacefully expressed; demanded that the Government of Myanmar immediately and unconditionally release the jailed parliamentarians-elect, Daw Aung San Suu Kyi and other NLD political leaders, as well as all political prisoners, monks and ethnic leaders struggling for democratization, political reform and respect for human rights in the country; and resolved to maintain their strong commitment to the promotion and protection of the fundamental human rights of the people of Myanmar as an expression of solidarity with their sacrifice and struggle against tyranny.

70. In order to assist parliaments in the exercise of their role as guarantors of human rights, IPU promoted the establishment of special parliamentary committees responsible for human rights, gathered information on those committees and entered it into an interactive database, and held annual seminars for committee members on current affairs. A seminar on migration and human rights had recently been organized in collaboration with the International Labour Organization and OHCHR.

71. Migration had a bearing not only on issues relating to the economic and development spheres but also on those relating to civil, political, economic and social rights, in countries of origin as well as in countries of transit and destination. Parliamentarians must work to promote migrants' rights and to combat stereotypes and policies that adversely affected social diversity and cohesion, and ensure that their Governments ratified the relevant international agreements, in particular the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. That issue would remain one of the main points of discussion at the 118th IPU Assembly, which would take place in 2008.

72. **Mr. Dall'Oglio** (Observer for the International Organization for Migration (IOM)), speaking under agenda item 70 (b), said that the protection of the fundamental rights of migrants was essential to orderly and humane migration. IOM had addressed the Committee on that topic in 2006, against the background of the debate during the High-level Dialogue on Migration and Development on measures to ensure respect for and protection of the human rights of all migrants and to prevent and combat smuggling of migrants and trafficking in persons.

73. The debate had continued in 2007, in particular in the Global Forum on Migration and Development, which had first met in July on the initiative of the Belgian Government. On that occasion, emphasis had been laid on the five priorities of fighting racism and xenophobia, respecting and implementing relevant international instruments, ensuring protection and

non-discriminatory treatment of migrants, empowering migrants, and fighting human trafficking. Again in 2007, the Alliance of Civilizations had highlighted the importance of education, youth, migration and the media in reducing tensions and facilitating tolerance and dialogue among cultures, communities and individuals.

74. IOM was involved in several projects to protect the fundamental rights of migrants and, on the initiative of the Alliance of Civilizations, was engaged in discussions with journalists on the role of the media in depicting migration issues and migrants themselves. To mark the first anniversary of the publication of the report of the High-level Group of the Alliance of Civilizations, IOM, in cooperation with Inter Press Service, would be holding a conference on the role of communication in the dialogue among civilizations on 29 November 2007 in Venice. Hosted by the province of Venice, the conference would be attended, among others, by the United Nations High Representative for the Alliance of Civilizations, Mr. Sampaio.

75. IOM welcomed the proposal of the Government of the Philippines to include the issue of "Migrants' rights and development" in the agenda of the next meeting of the Global Forum on Migration and Development, to be held in Manila in October 2008. Along with other members of the Global Migration Group, IOM would help the Government of the Philippines to prepare the meeting and ensure concrete follow-up for its outcomes.

76. Referring to the report of the Special Rapporteur on the human rights of migrants (A/62/218), he said that IOM sought to protect the rights of migrants. The Council of the organization, in its resolution on IOM strategy for 2007-2010, adopted in June, had acknowledged that the effective promotion and protection of human rights were an integral part of the IOM programmes, conceptually and in practice.

77. **Mr. Ndjonkou** (Observer for the International Labour Organization (ILO)) welcomed the Convention on the Rights of Persons with Disabilities, in particular its provisions on work and employment, vocational training, habilitation and rehabilitation. It was an important text and supplemented the ILO Convention concerning Vocational Rehabilitation and Employment of Disabled Persons and the Code of Practice on Managing Disability in the Workplace, other international labour standards and relevant regional and national initiatives. The Convention did not create new rights but recognized the right of more than 470 million disabled men and women to earn their living through freely chosen or accepted work, in either formal employment or self-employment.

78. Since 2001, ILO had increased its collaboration with Governments, social partners and civil society, including disabled persons' organizations, with a view to improving the practical effectiveness of legislation and policy concerning the vocational training and employment of persons with disabilities. It was accordingly reviewing the laws in force, helping to develop national action plans and supporting activities within the framework of those plans. In order to build the capacity of Governments, lawyers, social partners and disability advocates, ILO had issued legislation guidelines in 11 languages, established an online database on disability-related law and policy and developed and tested a curriculum in that field in several developing countries.

79. The theme of the International Day for Disabled Persons in 2007 would be "Decent work for persons with disabilities", and on that occasion a review would be launched of international and national measures to promote the right to decent work of persons with disabilities.

80. **Mr. Schulz** (Observer for the International Federation of Red Cross and Red Crescent Societies (IFRC)) speaking under agenda item 70 (e), said that civil society and Ambassador Don Mackay of New Zealand had played a crucial role in the elaboration of the Convention on the Rights of Persons with Disabilities. Red Cross and Red Crescent Societies throughout the world subscribed to its guiding principles, and many of them therefore welcomed the prospect of celebrating the International Day for Disabled Persons, on 3 December. The Federation looked forward to the entry into force of the Convention and its Optional Protocol, and would discuss with the Office of the High Commissioner for Human Rights its own possible contribution to the work of the future Committee on the Rights of Persons with Disabilities. It also intended to work in that area with the Inter-Parliamentary Union, which had produced a Handbook that served as an excellent supplement to the Convention.

81. He spoke of the activities of the Red Cross Society in Bulgaria, which managed a home-care

programme aimed in particular at persons with disabilities. The programme was supported by the Bulgarian Government, but also by the Red Cross Societies of Germany, Italy and Switzerland, and it was fully in line with the international cooperation objectives set out in article 32 of the Convention.

82. He also highlighted the role of the Child Rights Information Network in disseminating information on disability issues and the work of the United Nations Department of Economic and Social Affairs, described in its new website under the appropriate title of "Enable". Work with and for persons with disabilities in many ways exemplified the theme "Together for Humanity", chosen for the 30th International Conference of the Red Cross and Red Crescent Movement, to be held in Geneva at the end of November 2007.

83. Referring to the work of national Red Cross and Red Crescent Societies in countries affected by the problem of mines, he said that the Ottawa Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and on their Destruction, of which 2007 was the tenth anniversary year, was also of major importance for persons with disabilities. In Mozambique, the Red Cross Society was engaged in action that was fully consistent with the provisions on international cooperation and assistance contained in article 6 of that Convention.

84. **Mr. Ahmed** (Sudan), speaking in exercise of the right of reply, said that the statement by the representative of Australia concerning the human rights situation in the Sudan lacked objectivity and was politically motivated. Everyone knew that Australia could not afford to give lessons in the field of human rights promotion and protection, in view of its treatment of immigrants and aborigines. He hoped that Australia would have the courage to recognize the violations that it committed before concerning itself with the human rights situation in other countries.

85. **Mr. Navoti** (Fiji), speaking in exercise of the right of reply, noted that the representative of Australia had seen fit to mention the human rights situation in Fiji under agenda item 70 (c), but that his malicious and misplaced remarks would in no way contribute to the reconstruction of Fiji. The media and lawyers and judges were no longer intimidated, and the country wished to cooperate with the international community in that regard. The Acting Prime Minister had assured the General Assembly and the Pacific Islands Forum that elections would be held in 2009.

86. Australia knew full well that Fiji needed encouragement and not threats to progress towards democratic governance and it must realize that the country was moving forward and sparing no effort to restore parliamentary democracy.

87. **Mr. Pak** (Democratic People's Republic of Korea), speaking in exercise of the right of reply concerning the intervention by Japan, said that the question of abductions of Japanese citizens had already been resolved. The fate of somewhat over 10 Japanese nationals could not be compared with that of 8.4 million Koreans, in particular, the 200,000 comfort women who had been captured by Japan. Nevertheless, his Government had, at Japan's request, conducted a nationwide investigation on the question, and had reported its findings to the Japanese authorities. It had been confirmed that 13 Japanese nationals had been abducted between the late 1970s and the early 1980s; five were still alive and had been authorized to return to Japan with their children, and eight were deceased. The Government of the Democratic People's Republic of Korea had formally expressed its regrets and provided all necessary explanations on the matter. The Japanese authorities had in fact thanked his Government for its sincere efforts and had shown their good will by not publicizing the situation. If they wished to settle the question, they should begin by informing the families of the victims and stop playing games with public opinion.

88. His Government would continue to do its best to find a solution in the context of the application of the declaration adopted by the two countries in September 2002 and hoped that the Japanese Government would view the situation realistically and be reasonable.

89. He would not reply in detail to the statement by the representative of Australia because it was absurd and politically motivated.

90. **Mr. Ke** Youshang (China), speaking in exercise of the right of reply concerning the statement made during the morning by the Swiss delegation on the question of the death penalty, said that Chinese penal law strictly limited the application of capital punishment to a few individuals accused of very serious crimes. In 2006, the number of persons sentenced to death had been at its lowest level in

10 years. The death penalty was not a human rights question and was not prohibited by international law.

91. When the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights had entered into force, the great majority of the countries currently represented at the United Nations had been applying it, and more than 80 countries still were. That simply showed that the situation varied from country to country, as did the timetable followed for definitively abolishing the death penalty. Those countries that until recently had still been in favour of the death penalty should not try to impose their new viewpoints on others.

92. **Mr. Hla Myint** (Myanmar), speaking in exercise of the right of reply concerning the statements made during the morning by Australia, New Zealand, Norway and Japan harshly criticizing his country, said that detailed explanations of recent events had already been provided to the Special Rapporteur on the situation of human rights in Myanmar. The Special Rapporteur had, moreover, been invited to visit the country, as Mr. Gambari had done. The constant criticisms levelled against his country did nothing to help it take the measures that were needed.

93. **Mr. Shinyo** (Japan), speaking in exercise of the right of reply concerning the statement by the representative of the Democratic People's Republic of Korea, said that that statement was unfounded, and that he could not accept it. The question of abductions was a very serious one which affected not only Japan but also other countries such as Thailand and Romania.

94. In the resolution adopted in December 2006 on the situation of human rights in the Democratic People's Republic of Korea, the General Assembly had expressed its very serious concern at the abductions of foreigners.

95. His Government had established that 17 victims of abductions were Japanese nationals. Of those 17, only five had returned to Japan. According to the authorities of the Democratic People's Republic of Korea, eight of the remaining 12 had died, and four had allegedly never entered that country. Japan could not accept that explanation and had to assume that the 12 individuals who had allegedly disappeared were still alive.

96. Although the representative of the Democratic People's Republic of Korea had said that his Government was cooperating with Japan, it had not cooperated enough. The remains of an abducted Japanese woman contained the DNA of several individuals. He would like to hear an explanation of that mistake.

97. The Working Group on Enforced or Involuntary Disappearances, which had reviewed nine pending cases, eight of which involved Japanese nationals, had also expressed the hope that the Democratic People's Republic of Korea would take steps to shed some light on the matter.

98. President Kim Jong-il had confirmed the abduction of Japanese nationals and had apologized to the Japanese Prime Minister during the Prime Minister's visit to Pyongyang in September 2002, and in 2004 he had promised to follow up on the investigation.

99. It was therefore incumbent upon the Democratic People's Republic of Korea, which was responsible for serious crimes and violations of human rights and of international law, to let the abductees return to their country of origin. Japan, for its part, was prepared to continue its consultations with the Democratic People's Republic of Korea with a view to normalizing relations between the two countries.

100. **Mr. Pak** (Democratic People's Republic of Korea), replying to the representative of Japan, said that the reference to other countries was unfounded. The claim that 12 abductees might still be alive would only make sense if the dead could come back to life. Eight individuals who, according to Japan, had been abducted by the Democratic People's Republic of Korea had been found in Japan. The Japanese authorities had even gone so far as to say that they were not sure if the remains that had been returned to Japan had been returned by the dead woman's husband.

101. Although it was very difficult under those circumstances to collaborate with Japan, the Democratic People's Republic of Korea would do its best, as it had in the past, to resolve the issues in a straightforward manner.

102. **Mr. Shinyo** (Japan), replying to the representative of the Democratic People's Republic of Korea, said that the issue under discussion did not only concern Japan but the entire international community as well. In his report, Mr. Muntarbhorn had indicated that a number of Japanese nationals had been abducted

in the 1970s by agents of the Democratic People's Republic of Korea, probably for espionage purposes. While five individuals had returned to Japan, other cases remained unsolved. The question of abduction of nationals from other countries by the Democratic People's Republic of Korea was also pending.

103. As indicated by the Secretary-General in his report and by the General Assembly in its recent resolutions, the abductions constituted serious violations of the fundamental rights of nationals of sovereign nations, and it was important to shed light on the issue.

The meeting rose at 5.50 p.m.